

## **AGENDA**

**FOR THE REGULAR MEETING OF THE CITY OF BELEN PLANNING AND ZONING COMMISSION, STATE OF NEW MEXICO, COUNTY OF VALENCIA TO BE HELD ON MONDAY THE 10<sup>TH</sup> OF APRIL 2017 AT 6:00 PM IN THE COUNCIL CHAMBERS AT CITY HALL, 100 SOUTH MAIN STREET, BELEN, NEW MEXICO 87002.**

**ALL P & Z COMMISSION MEETINGS ARE VIDEO AND AUDIO RECORDED.**

***A COPY OF THE AGENDA CAN BE OBTAINED FROM THE OFFICE OF THE CITY OF BELEN PLANNING & ZONING DEPARTMENT.***

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. PLEDGE OF ALLEGEANCE**
- 4. APPROVAL OF AGENDA**
- 5. APPROVAL OF MINUTES:**  
**March 27, 2017**
- 6. DISCUSSION**  
**Zoning Ordinance-Dwelling Units**
- 7. OPEN COMMENTS/REQUESTS**
- 8. ADJOURNMENT**

**RESPECTFULLY SUBMITTED**

**/s/  
Lisa R Miller  
Planning & Zoning Administrator**

**cc: Mayor & City Council  
News Bulletin**

**Belen Chamber of Commerce  
Belen Recreation Center**

**Belen Public Library  
Belen City Hall**

**JERAH R CORDOVA**  
MAYOR  
**LEONA VIGIL**  
CITY MANAGER



**CITY OF BELEN**  
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**WAYNE GALLEGOS**  
CITY COUNCIL  
**DAVID CARTER**  
CITY COUNCIL  
**DARLEEN ARAGON**  
MAYOR PRO-TEM  
**FRANK ORTEGA**  
CITY COUNCIL

**CITY OF BELEN**  
**PLANNING & ZONING COMMISSION MEETING**  
**MINUTES**  
**MARCH 27, 2017**

Chairman Steve Etheridge called the regular meeting of the Belen Planning and Zoning Commission meeting to order at 6:30 p.m.

**PRESENT:** Chairman Steve Ethridge  
Vice Chair Pete Armstrong  
Commissioner Debbie Thompson  
Commissioner Claudine Montano  
Commissioner Gordon Reeves

**CITY STAFF:** Steven Tomita, Economic Development Director  
Lisa Miller, Planning & Zoning Administrator

**OTHERS:** Helen Wolfe, Citizen  
Ryan Lang, Self  
Mike Baldonado, Self  
Adela Baldonado, Self  
Patrick Garcia, Citizen  
Morn McDonald, Citizen  
Manuel Rodriguez, Citizen  
Kevin Winner, Broadband Network of NM  
Patrick Sanchez, Self  
Berlinda Sanchez, Self  
Kalyani Estrada, Self  
Jesse Parra, Self

**PLEDGE OF ALLEGEANCE**  
Chairman Steve Etheridge

**APPROVAL OF AGENDA:**

Commissioner Claudine Montano moved to approve the agenda.

Commissioner Gordon Reeves seconded the motion.

Motion Carried.

**APPROVAL OF MINUTES:**

Commissioner Gordon Reeves moved to approve the minutes of March 13, 2017.

Commissioner Claudine Montano seconded the motion.

Motion carried.

**PUBLIC HEARING WITH POSSIBLE ACTION**

- A. REQUEST FOR ANNEXATION OF PROPERTY LOCATED AT 7 LOPEZ LOOP: PATRICK SANCHEZ. LEGAL DESCRIPTION:** Township 5 North, Range 1 East, Section 7, Tract B, Map 97, lands of Placido & Herman Sanchez, Containing .63 acres, aka 7 Lopez Loop, Belen NM 87002.

Lisa Miller told the Commission that this issue was tabled at the last meeting for more information concerning the utilities and police and fire protection. She informed the Commission that she had received the responses from the utilities and the fire department and provided a copy of those responses in their packet. The Community maintenance director measured the road and in one area, on the south was 25 feet wide and on the north it was 30 feet wide. The fire department said that they could support a fire there with a 7,000 gal capacity between three trucks. The water line to the home is a ¾ inch line and the sewer looks like a three inch line. The main water line on HWY 314 is 6 feet deep and the sewer line is 13 feet deep and they are both 8 inch lines. There was some concern with having three homes on one sewer line because if the owner decided to sell one of the other homes, what would happen. There is nothing in the Ordinances that require each home to have separate lines.

Vice Chair Pete Armstrong asked if the section of road next to the home would also be annexed and that the road would not meet city standards.

Lisa Miller informed the Commission that anytime there is an annexation the road adjacent to that annexation automatically is also annexed. The City road standard is 50 feet wide.

Steven Tomita said that the City can only annex what is existing. To widen that road we would have to either condemn part of the owner's property or make it a requirement that the owner donate property so the road can be widened. What he would suggest is that if the applicant has excess property that can be donated and also, there needs to be a conditional understanding that the City will not pave that road, or maintain that road until such a time that it can meet the City standards.

Vice Chair Pete Armstrong asked if the City was confident that the three inch sewer line will handle the sewage for the three homes.

Steven Tomita said that it is a private line and it is not the City's responsibility to maintain it. If there was a problem with the line it is up to the owners to repair it.

Mr. Patrick Sanchez, owner of the property, informed the Commission that the sewer line is a four inch line and not a three inch line.

Commission Debbie Thompson asked for clarification on the sewer lines coming off of HWY 314 and the owner has put in a four inch line and now wants to annex in the other home, hook it up to the same line, but in order for the City lines to stay clear they are still going to need to give up part of their property as an easement.

Steven Tomita said that at one point in time that we will have to look at records to see if there is an ability to do that.

Commissioner Claudine Montano asked who maintained that road at this time.

Lisa Miller said that the road up to Castillo's office is maintained by the City and the rest is maintained by the County.

Vice Chair Pete Armstrong said that when you add this third home, that third home is going to be right up against Lopez Loop as it currently exists.

Steven Tomita said that there is a driveway at this home.

Chairman Steve Ethridge asked Mr. Sanchez why he wanted to annex this home.

Mr. Sanchez informed the Commission that he wanted to annex the home so that he may hook up to the utilities, mainly the sewer. If he hooks up the water it will also be to his water line.

Chairman Steve Ethridge asked Mr. Sanchez if he would be willing to donate some of the property to the City, for the expansion of the road.

Mr. Sanchez said he would be willing to work with the City on this issue.

Chairman Steve Ethridge said that it makes sense for each home to have their own lines. Mr. Sanchez may not always be the owner.

Lisa Miller informed the Commission that he was to add that home to an existing water line, there would be no water pressure.

Chairman Steve Ethridge said that the City is in no position to add water lines along Lopez Loop at this time. He asked if the sewer line for this home would be a separate line.

Mr. Sanchez said that it would be hooked up to the present line. He will need to place a pump in that line to pump it to me sisters line, which is attached to the same line he is on. The reason for the pump is the home is lower than the others and the waste needs to be pumped uphill to his sister's line, then it will gravity feed down to the connection on 314 through his line.

Steven Tomita said that the reason he is requesting the annexation is so he can hook the home up to City utilities. Our Ordinances say that he cannot hook up to our utilities unless they annex.

Chairman Steve Ethridge said that the routing of the line does not really matter if it is on private property then.

Steven Tomita said yes. He would like some conditions put in, if it is approved for final approval by the City Council, that we will not improve Lopez Loop, or be obligated to improve or maintain Lopez Loop until there is sufficient right-of-way for a road built to meet City standards.

Commissioner Claudine Montano moved to send this to City Council for final approval with the recommendation to approve the annexation of 7 Lopez Loop with the conditions of no improvements or obligations to improve or maintain Lopez Loop until there is sufficient right-of-way for a road built to meet City standards.

Commissioner Debbie Thompson seconded the motion..

Motion carried.

Vote was a follows:

Commissioner Claudine Montano	Yes
Commissioner Gordon Reeves	Yes
Commissioner Debbie Thompson	Yes
Vice Chair Pete Armstrong	Yes
Chairman Steve Ethridge	Yes

**B. REQUEST FOR A WIRELES TELECOMMUNICATIONS FACILITIES**

**PERMIT: BROADBAND NETWORK OF NEW MEXICO LLC. Legal**

**Description:** Township 5 North Range 2 East, Section 18, Map 100, located within the City Right-of-way on the south side of the intersection at Baca Ave and Sixth St.

Lisa Miller informed the Commission that this request was tabled until more information could be received. She recently received all the information that the Commission requested and made changes to the height of the pole. It will now be 70' total instead of an 81' foot pole.

Steven Tomita said that he would like them to note that because of the nature of the antennae, it was determined that this is really a utility pole classification and not a typical WTF antenna.

Vice Chair Pete Armstrong asked if all technical issues were addressed.

Lisa Miller said yes.

Vice Chair Pete Armstrong said that it is stated that the pole is 70' yet on the propagation document it speaks of 79' and that can make a significant difference.

Mr. Kevin Winner said that they were originally looking at a 79' pole and they lowered the height so the coverage is not as robust as the original document but it still meets the primary objectives being shown on the map.

Chairman Steve Ethridge asked if he foresees more of these poles around the Belen area.

Mr. Kevin Winner said yes. They (Broadband Network of New Mexico) has over 500 sites around New Mexico at this time. The one before you is the only one that is located within Belen and they see more in the future. The technologies are getting better so these kind of poles can be used instead of the traditional towers.

Chairman Steve Ethridge asked if there would be overhead lines or underground lines going to these poles. He understood that the maximum overhead span of 125' was the normal. He personally does not like overhead lines and would like to see these go underground.

Mr. Kevin Winner said they are working with PNM on this and in this area it looks like it can go underground.

Vice Chair Pete Armstrong said as the City starts to grow and businesses move in, how easy is it to support those new industries or businesses as we grow. He is looking at the airport because he believes that is going to be an immediate short term as the area out there grows.

Mr. Kevin Winner said additional poles will have to be installed or another type of antennae would need to be installed if the data is really extensive.

Chairman Steve Ethridge asked if there was any equipment in the ground that requires power.

Mr. Kevin Winner said that everything is mounted to the pole.

Vice Chair Pete Armstrong moved to approve the permit as submitted.

Commissioner Gordon Reeves seconded the motion.

Motion carried.

Vote was as follows:

Commissioner Claudine Montano	Yes
Commissioner Gordon Reeves	Yes
Commissioner Debbie Thompson	Yes

Vice Chair Pete Armstrong  
Chairman Steve Ethridge

Yes  
Yes

**C. REQUEST FOR A ZONE CHANGE FROM R-1 TO R-2 AND A VARIANCE ON THE SETBACK RESTRICTIONS: MIKE BALDONADO**, for the purpose of constructing a duplex. **Legal Description:** Township 5 North, Range 2 East, Section 18, map 100, Tract 57A1, Containing .11 acres, aka 133 S Tenth St., Belen NM 87002.

Lisa Miller informed the Commission that Mr. Baldonado came into the office to discuss constructing a duplex at that location. The property is zoned R-1 and that means there can only be a single family structure located there. He would like to place this small duplex containing two one bedroom residences there. The lot is very small and the variance is to narrow the rear setbacks so that this structure can be constructed. There are apartments that are located behind lot and there are commercial buildings in front and on the north side. There is a residential home on the south side of the lot.

Vice Chair Pete Armstrong said that there are some drawings included in the packet, but the variance was not well documented and he would like to see more information relative to the request for a variance.

Mr. Baldonado said that he was ok with all setbacks but the rear. There is not enough room on the lot for the 15' rear setback. He would like to go 12' in the rear. There is 57' total on the depth of the lot.

Commissioner Debbie Thompson asked if there was an alley easement at the rear.

Vice Chair Pete Armstrong said no.

Commissioner Claudine Montano said that it is nice to see new construction coming in. We need it.

Chairman Steve Ethridge said that he is glad to see an empty lot being used.

Commissioner Debbie Thompson asked if the rear setback variance was the only one that they were requesting.

Lisa Miller said yes along with the zone change from R-1 to R-2.

Chairman Steve Ethridge said he likes the idea of this being next to the church. He can imagine a little old lady walking to church every morning. He asked if there has been any reply to the notices sent out.

Lisa Miller said she has not received anything but there seems to be some of the neighbors that were notified in the audience.

Norm McDonald, the owner of the property just north of this lot, welcomed Mike to the neighborhood. Having reviewed the City Ordinances he feels an important step was skipped. He informed the Commission that the lot is .11 acres and that is 4,791 sq. ft.

and the minimum lot size for an R-1, which it is currently zoned, is 6,000 sq. ft. and the minimum lot size for an R-2 zone is 7,000 sq. ft. He is glad to see construction on an empty lot but it needs to be something that fits the zoning requirements but they have not asked for a variance on the minimum lot size, which in this case is needed. He suggested that the variance request be extended to include the lot size (17.23.030). He feels that the variance would be needed whether it is a R-1 Zone or an R-2 zone and that the R-1 zone is a more feasible fit than the R-2. Article 17.56.010 also says that two parking spaces per dwelling unit is required so there has to be sufficient room to accommodate that and his suggestion is that this request be tabled until such time that a request is made on a variance on the minimum lot size.

Steven Tomita said that he agrees that it does not comply with the minimum lot size requirements but if it remained an R-, it would still be in violation because an R-1 is for a single family dwelling unit and you can't put a duplex in an R-1 zone. There are two options. You can go with an R-3 which sets forth a 3,500 sq. ft. minimum lot size or you can go for an S-U zone, which allow more flexibility. He informed the Commission that they are going to be facing some of these issues with dealing with infill. You are going to see a lot smaller unit housing and our codes are not set for that, at this time.

Vice Chair Pete Armstrong said in many cases, they grandfather in properties that do not meet code requirements and that puts the land owner in a bind. He asked how long the land had been at an R-1 zone.

Lisa Miller said that the Zoning Ordinance went into effect in 1974 or 1975.

Vice Chair Pete Armstrong said that we are going to see this over and over again, because of history and not good development policies and procedures relative to government and how do we address this. Where does the landowner go now.

Steven Tomita said that is why you only have the two options. You can zone it R-3, which allows that type of development with a smaller lot size or a SU zone, which looks at unusual conditions or situations.

Vice Chair Pete Armstrong said that he understands that. This lot does not meet the R-1 zone and we are going to force the landowner to submit paperwork and pay fees for something that they have owned, probably for some time.

Steven Tomita said that the lot was made that size years ago and the present owner has just purchased it the way it is. This does not preclude him from placing a small building on that lot now under the R-1 zone or the owner may come in, if he wants to do something else, to look at his options. We want to work with him but it needs to be properly under the current zoning ordinances.

Commissioner Debbie Thompson said that if the Commission tabled this request, he could come back with the correct and applicable zone and asked if that was correct.

Steven Tomita said yes.



Vice Chair Pete Armstrong moved to table this request.

Commissioner Debbie Thompson seconded the motion.

Motion carried.

Vote was as follows:

Commissioner Claudine Montano	Yes
Commissioner Gordon Reeves	Yes
Commissioner Debbie Thompson	Yes
Vice Chair Pete Armstrong	Yes

Mr. Martin Chavez informed the Commission that it was good that someone wants to build there but he has a concern with the size of the lot. He can see a small family home there but does not see how two families with a total of four parking spaces can be put into the size of that lot. He doesn't feel it the right size for a duplex.

Vice Chair Pete Armstrong said that was the reason why they tabled this, so the owner can provide us with more information.

Mr. Chavez said that the letter he received didn't give any indication of the size of the duplex or where it was being placed on the property.

Lisa Miller said that a proposed building was provided to the Commission in their packets. If approved the owner would have to submit a full set of construction plans to the Planning & Zoning Department for review.

Mr. Chavez asked if he could view these plans when they come in.

Lisa Miller said yes. She could let him know when they come in so that he can look at them.

**D. REQUEST FOR A VARIANCE ON FENCE HEIGHT RESTRICTIONS: RYAN LANG. Legal Description:** Township 5 North, Range 1 East, Section 13, Lot B, Payne Addition, aka 501 S Thirteenth St., Belen NM 87002.

Lisa Miller informed the Commission that Mr. Lang came to the Planning & Zoning Department office on the regulations of fences in his area. He has a safety issue and was wishing to put up a higher fence than is allowed. It was explained to him what would be required to request a variance in fence height restriction and he chose to pursue this option. His existing fence sits back 20' from the sidewalk and is about 2' high and he wants to add to this.

Mr. Ryan Lang informed the Commission that there is a lot of drug traffic in the neighborhood all day every day. They cut across my yard. He does not let his children play in the yard. It is not feasible for him to put up a three or four foot fence.

Commissioner Claudine Montano asked if he was going to continue the fence along Dillon Ave.

Mr. Lang said yes. He wants to protect his property and his children and family.

Lisa Miller said that being a corner lot he has two fronts and she did check to make sure that it would not interfere with the clear site triangle at the corner of Thirteenth and Dillon.

Commissioner Gordon Reeves asked if the fence has been put up on the Thirteenth St. side already.

Mr. Lang said yes because it sits back 20' from the sidewalk and he was told that would be ok. He has had several people come up to him and say they were all for it and that it looked nice.

Commissioner Debbie Thompson said that on the back side of the property, along the ditch bank that runs along Mesa Rd, there looks to be a fence along the property line back there, according to the aerial she was provided with, and wanted to know if that fence did exist.

Mr. Lang said that the fence is there and was there when he purchased the home. He has no plans on changing anything there.

Chairman Steve Ethridge asked if the variance request if on the Dillon Ave. side.

Lisa Miller said that it is for both the Thirteenth St. and Dillon Ave. There is a question as to where his lot line is on the Thirteenth St. side and felt that he should include that on the request so that if in the future there were any issues with it. It was safer to include both.

Vice Chair Pete Armstrong asked if the 6' fence is already up on the Thirteenth St. Side

Helen Wolf said that it is taller than that. It is more like 8' if you include the 2' retaining wall that is there.

Vice Chair Pete Armstrong said that he understood the security issues and wanted to know if he has reported any of the instances he spoke of, to the police.

Mr. Lang said that he has not and the reason is that he has been told that those things have been going on for a long time and nothing has ever been done even when they were reported. Being the new one on the block, he does not want any retaliation to happen.

Vice Chair Pete Armstrong said that he has had similar types of incidences in his neighborhood and his position has become, anything and everything he sees that is out of the ordinary, he reports it. He would recommend that these incidences be report by him or any of the neighbors, even if it is several times a day. The police need to know what issues are going on if they are going to do anything to correct those issues.

Chairman Steve Ethridge asked if there was a neighborhood watch in that area and it is a good idea to form one if there are not any.

Vice Chair Pete Armstrong asked why the variance was not for the whole lot.

Mr. Lang said that the lot next to him is empty and already has a fence and there is a fence already existing on the back side of the property.

Lisa Miller said that it also included a section of the fencing on the south side. It was marked with a yellow marker on the information provided in the packets.

Vice Chair Pete Armstrong said that this need a little more work. He doesn't think any of the Commission is against it but he thinks that a little more information is needed. He needs more information on the scope of the variance.

Commissioner Gordon Reeves asked if the existing from fence is a block fence and the other is about a foot inside the block fence and asked how tall that was.

Mr. Lang said it was 6'.

Commissioner Debbie Thompson said that she in of the understanding that there are two fences and not just one and she would like some clarification on this.

Mr. Lang said that the house is raised up higher than street level. The two foot fence is a retaining wall and then back about a foot is a six foot fence.

Steven Tomita asked if the lot has been elevated or is that just how the lot is.

Mr. Lang said that he did not know but the house has been there since the 50's.

Lisa Miller said the lot next door is also elevated with a retaining wall.

Commissioner Gordon Reeves asked how far back from the street is the three foot masonry retaining wall.

Mr. Lang said it is 20 feet back.

Commissioner Gordon Reeves said that if it is back 20' then he can put a 6' fence up but his concern is the details of where the property line is.

Lisa Miller explained the setbacks for a double fronted property.

Steven Tomita said that he would like to remind the Commission that the City is trying to change the fence regulations where fences would not be allowed in the front. He would like to impose a condition on the variance. This condition would be that if the conditions change in the neighborhood over time, where the crimes are no longer a problem, then the height of that fence would come back down to be in compliance with the fence ordinance.

Helen Wolfe, who lives across the street from Mr. Lang, that if he puts up a fence to the corner of Thirteenth St. & Dillon, it will block traffic vision on that corner. If he could back it away from the corner a little that would help considerably. Her main concern is being able to see the oncoming traffic.

Chairman Steve Ethridge said that this is a valid concern and it will be checked to make sure that the fence is within regulations as far as the clear site triangle is concerned.

Mr. Patrick Garcia supports Mr. Lang, for the reasons Mr. Lang stated. He had to do the same thing on Twelfth St. around his home, for the same reasons.

Mr. Jessie Parra said that his mother lives on Thirteenth St. near Mr. Lang and his mother's home has been broken into several times and the police have done nothing and even if the police catch the ones who are doing this, they will be out in a matter of days to do it all again. He agrees with the fence that Mr. Lang is doing. It will deter that kind of activity from happening to him.

Vice Chair Pete Armstrong said that the Commission is not against fences but there are rules and regulations regarding fences. Not all the rules are agreeable to everyone but there are rules and regulations in the City that need to be followed. In Albuquerque you rarely see a fence in the front yard and that is just the way life is.

Steven Tomita said that ultimately it is the way the City would like to see the same in Belen.

Mr. Lang said he understands but he doesn't see how taking fences away and their security is going to help. That is like opening your front door and saying come on in and take what you want.

Commissioner Gordon Reeves said that they are establishing setbacks. You can still have a fence but it will have height and setback restrictions.

Chairman Steve Ethridge said that it is tuff, with this crime thing, to stand up against guys that never sleep. Join with your neighbors and try what you can.

Vice Chair Pete Armstrong said that this is not a problem that is unique to that area and is all over the City and other communities. A lot of people also have to deal with this issue. We want to work with you on this but let's do it the right way and if the environment changes you may be able to take those fences down again. It is not something that is cast in concrete but, to do it the right way is the only way to do it.

Mr. Lang said that was why he was here. He wants to do it the right way and abide by the laws.

Steven Tomita said that on the south side he has approximately 15 feet from the corner of the retaining way to the back of the curb and on the north side, at the corner of Dillon and Thirteenth St. it is 20 feet. This shows that the retaining wall angles and Mr. Lang will need the variance for the whole fence.

Vice Chair Pete Armstrong said that the Commission wants the documents that say they have all the information requested and it meets all criteria.

Steven Tomita said that the P & Z Department will go out and measure the area and will also calculate the clear site triangle to see if it meets those standards.

Commissioner Gordon Reeves asked if Mr. Lang would oppose moving the fence back a little, on the Dillon side.

Mr. Lang said he had no problem moving it back a little, but if he had to take it all the way back the 20' that would defeat what he is trying to accomplish because it would be right up against the home. He is confused because he thought that was what the variance was for, so he could place the fence at that location and take it to 6 feet.

Commissioner Gordon Reeves said that was why he asked if Mr. Lang would be willing to move it back. If the clear site triangle should come into play he may have to bring it back even if it is only a couple of feet.

Mr. Lang said he would not have a problem moving it back a couple of feet.

Steven Tomita said that the clear site triangle is when you pull up to a corner; it is the distance that you need to see an approaching vehicle. It is a triangle piece at the corner and being that the existing fence is 20 feet back from the curb, it may already be in compliance.

Lisa Miller said that there is a formula that is used to figure out the clear site triangle. The posted speed on the road is also a part of the equation.

Commissioner Claudine Montano said why he should wait. He is trying for security.

Commissioner Gordon Reeves asked if he could place it on top of the existing wall.

Mr. Lang said that he could not build on top of that solid concrete retaining wall. How would set posts without tearing up the retaining wall. That is why the fence is being put about a foot back from the retaining wall.

Vice Chair Pete Armstrong said that they could debate this issue over and over but someone from the City needs to go out to the location and do some measurements.

Steve Tomita said he thinks that what needs to be done is to go out and measure from the curb to the wall, the retaining wall and take some photographs. That retaining wall is a real funky one. It is not all concrete and it is supported by poles on the Dillon side.

Chairman Steve Ethridge asked if that was why he did not want to place the other fence on the retaining wall on the Dillon side.

Mr. Lang said yes.

Vice Chair Pete Armstrong said that he does not think that this Commissions responsibility to solve a potential problem that has been identified. They can provide a little guidance, but it is the applicants responsibility to come back with the documentation so that the Commission can look at that and say yes or no.

Steven Tomita said that the Commission is in an approval process which you can derive solutions going back and forth until a solution and or approval is reached.

Chairman Steve asked if that should happen with the Commission or should it happen at the staff level.

Commissioner Gordon Reeves said that it is the Commissions responsibility.

Vice Chair Pete Armstrong said that in cases like this the Commission should have the documentation to support the request.

Mr. Lang said that if it is his responsibility to provide that information then he should have been provided with the right information to prepare. He was give the application with the requirements on it and he provided the information that application requested.

Steven Tomita said, to clarify this, he was given an application and the information was put together, but that does not include questions that might come up during the hearing process. Whatever is put together does not guarantee that other questions may come up during this process. The Commission is not trying to overburden the applicant. He understands Mr. Longs frustration but the Commission raised questions that were not anticipated so that not only he is covered but so is the City.

Commissioner Gordon Reeves asked the Commission if the fence along Thirteenth St. is in compliance with the Ordinances.

Vice Chair Pete Armstrong said that the question is what the setbacks are.

Commissioner Gordon Reeves said that the retaining wall is back from the curb 20 feet and the fence is one foot behind that. On the Dillon St. side, there is also an existing retaining wall and if he set the 6 foot fence one foot or two feet back from that, would that be permissible, so he could line up with the fence long Thirteenth St. He sees no problem with that as long as the clear site triangle is not obstructed. He has put a lot of money into this fence.

Commissioner Debbie Thompson said that she would like to see a photo included with the information requested.

Steven Tomita said that what they viewed on his computer is allowable because it is being shown at this public hearing. It is no different than going out to that location and taking a photo then showing that photo at the meeting. He also informed the Commission that the front fence on the southeast corner is not 20 feet back from the curb. At that area it is around 15 feet from the curb. The best way to go about the variance is for it to be a blanket variance.

Commissioner Gordon Reeves moved to approve the Variance of a 6 foot fence height, setback from the existing retaining wall one to two feet, providing that the clear site triangle is in compliance.

Commissioner Debbie Thompson seconded the motion.

Motion carried.

Vote Was as follows:

Commissioner Claudine Montano	Yes
Commissioner Gordon Reeves	Yes
Vice Chair Pete Armstrong	Abstained
Commissioner Debbie Thompson	Yes

#### OPEN COMMENTS/REQUESTS

Commissioner Gordon Reeves asked if Mr. Luna's daughter had contacted the office concerning the alley behind Rutilio's.

Lisa Miller said that she has not received anything.

Chairman Steve Ethridge said that the River Park is moving forward. The schools have volunteered the bush hog and a worker to clear out the weeds. Waste Management is going to provide a roll off and the students from Infinity High School who do community service, will be out there on Fridays cleaning up. The playground equipment does need a little work. They are trying to get some woodchips for the playground.

Steven Tomita said that there was a workshop on the perceptions of the City of Belen. The next meeting is on April 20<sup>th</sup> at 5:30 PM. It was a good meeting with suggestions on what we need to move forward. We need people to invest in the City. WE need them involved with what is going on around the City. Loves is moving forward and getting ready to submit their plans for review. He is hoping that he will have an answer from Tractor Supply as to whether they will be moving into the old ALCO building, by Wednesday afternoon. Last week Circle K informed us that they got their issue resolved and wanted to move forward with the waiver and then today we got notice to hold off until May. We have some possibilities going on.

Commissioner Claudine Montano asked if there was something going on with the Doodle Bug.

Vice Chair Pete Armstrong said they are having a Rail celebration which will also include the Harvey House, the City library and the Belen Art League. This is scheduled for April 1<sup>st</sup>.

Steven Tomita said Rio Metro is meeting with Tom concerning the new schedule. Rio Metro is planning on removing the ten o'clock train, going to Albuquerque, on Saturdays. Main Street, the City, and Tom are trying to keep to try and get more tourists into Belen.

**ADJOURNMENT**

There being no further business to come before the City of Belen Planning & Zoning Commission, Commissioner Gordon Reeves moved to adjourn.

Vice Chair Pete Armstrong seconded the motion.

Motion carried.

The regular meeting of the City of Belen Planning & Zoning Commission adjourned at 8:39 pm.

\_\_\_\_\_  
Chairman Steve Ethridge

ATTEST: \_\_\_\_\_  
Steven Tomita, Economic Development Director



## Chapter 17.04 - GENERAL PROVISIONS AND DEFINITIONS

### Sections:

#### 17.04.010 - Title.

These regulations shall be known as the "comprehensive zoning ordinance" of the city of Belen, New Mexico, and shall be referred to herein as "this title."

(Ord. No. 2015-14, 11-16-2015)

#### 17.04.020 - Purpose.

The regulations and restrictions of this title are designed to lessen congestion in the streets and public ways; to secure safety from fire, flood, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provisions for transportation, water, sewerage, schools, parks, and other requirements; to conserve the value of buildings and lands; and to encourage the most appropriate use of land throughout the city of Belen.

(Ord. No. 2015-14, 11-16-2015)

#### 17.04.030 - Application.

No structure shall be constructed, erected, placed, or maintained and no land use commenced or continued within the city of Belen except as specifically, or by necessary implication, authorized by this title. Conditional uses are allowed only on permit granted by the Belen planning and zoning commission upon finding that the specified conditions exist. Any use not designated a permissive or conditional use in a zone district is specifically prohibited in that zone district, except as otherwise provided herein.

(Ord. No. 2015-14, 11-16-2015)

#### 17.04.040 - Definitions.

For the purpose of this title, certain terms, words, or phrases used herein shall be interpreted as follows:

The word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as individual.

The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.

The words "shall" and "must" are mandatory, the word "may" is permissive.

"Accessory" means subordinate and incidental to a principal use or structure on the same lot.

"Accessory building" means a building that is subordinate and incidental to the principal building on the lot. An accessory building is typically a storage shed, workshop, or garage but is not used as a dwelling unit. The floor area of any accessory building shall not be greater than the floor area of the principal building on the lot.

"Apartment" means one (1) or more structures containing two (2) or more dwelling units each, located on one (1) lot.

"Blight" means a condition of property or the uses of property within the municipal limits of the city that are detrimental to the physical, social, and/or economic well-being of the community.

"Block" means any territory smaller than five (5) acres in size.

"Boarding or rooming house" means a dwelling unit containing up to and including five (5) guestrooms where lodging is provided, with or without meals, for compensation.

"Buffer landscaping" means areas of landscaping that serves as or is a part of a buffer zone.

"Buffer wall" means a stone, concrete, or masonry wall that is located on or near the property line between nonresidential zoned and residential property, is a part of a buffer zone and is intended to provide a buffer from an adjacent property.

"Buffer zone" means a strip of property located between two (2) land uses, where property lines abut, and intended to provide a buffer from an adjacent property.

"Earth Berm" means an earthen mound, natural or manmade, that serves as a sound attenuation or a visual obstruction between two (2) opposing land uses.

"Clinic" means a place where medical or dental care is furnished to persons on an out-patient basis by two (2) or more doctors or dentists.

"Conditional use" means one (1) of those uses enumerated as conditional uses in a given zone district. Such uses require individual approval and permit granted by the planning and zoning commission.

"Condominium" means one (1) or more structure containing two (2) or more dwelling units each that are sold to and held under individual ownership by the occupants, and which may or may not include ownership of the land upon which the dwelling units are situated. This includes townhouses, patio houses, and other similar forms of individual ownership.

"Contiguous" means touching or separated only by an alley or street.

"District" means an area in which there is a specific land use designation.

"Drive-in restaurant" means an establishment where food or beverages are sold and may be consumed on the premises outside the structure primarily in automobiles.

"Dwelling unit" means one (1) or more connected rooms and a single kitchen designed for and occupied by no more than one (1) family for living and sleeping purposes.

"Family" means one (1) or more persons occupying a single dwelling unit, provided that unless all members are related by blood, marriage or legal adoption, no such family shall contain more than three (3) unrelated persons.

"Floor area" means the total gross area of all floors of a building.

"Floor area ratio" means the relationship of the floor area to the lot area computed by dividing the floor area by the lot area.

"Grade" means the average of the finished ground level at the center of all walls of a building.

Height, building. "Building height" means the vertical distance from the finished lot grade to the highest point of the coping of a flat roof; the deck line of a mansard roof; or the average height between the plate and ridge of a gable, hip, or gambrel roof. Exceptions to the height requirements in this title include: silos, chimneys, cooling towers, water towers or tanks, flagpoles, antennas, spires, belfries, and other accessory objects usually required to be placed above the roof level and not intended for human occupancy.

"Home occupation" means an occupation conducted in a dwelling unit, provided that:

1. No person other than members of the family residing on the premises shall be engaged in such occupation.
2. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five (25) percent of the floor area of the dwelling unit for the home occupation shall be used in the conduct of the home occupation, nor more than six hundred (600) square feet of an accessory building.
3. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of the home occupation.
4. There shall be no sales in connection with such home occupation that would disrupt the residential nature of the district.
5. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood.
6. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in

other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

"Lot" means any parcel of land platted and placed on record in accordance with laws and ordinances; a parcel described by metes and bounds and having frontage on a public right-of-way.

Lot, area. "Lot area" means the aggregate lot area measured to property lines.

Lot, corner. "Corner lot" means any lot located at the intersection of, and having frontage on, two (2) or more streets.

"Lot depth" means the average distance between the front and rear lot lines measured in the mean direction of the side lot lines.

Lot, double-frontage. "Double-frontage lot" means any lot with frontage on two (2) parallel or approximately parallel streets.

"Lot width" means the average distance between the side lot lines measured parallel to the front lot line.

Lot line, front. "Front lot line" means the boundary of a lot bordering on a street. For the purpose of determining setback requirements on corner lot and double frontage lots, all sides bordering on a street shall be considered the front.

Lot line, rear. "Rear lot line" means the lot boundary line which is opposite and most distant from and not coterminous with the front lot line.

Lot line, side. "Side lot line" means any boundary line not a front line or a rear lot line.

"Mobilehome" means a transportable structure, exceeding either eight (8) body feet in width or thirty-two (32) body feet in length, built on a chassis and designed to be used as a moveable dwelling with or without a permanent foundation when connected to required utilities. Any mobilehome not constructed in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974 shall be prohibited from installation or placement within the city of Belen.

"Mobilehome park" means a parcel of land on which space is leased for terms of twelve (12) months or less, or rented for occupancy for thirty (30) days or more by mobilehomes, and which contains permanent facilities for the use of mobilehome occupants.

"Modular unit" means a factory-fabricated transportable building designed to be used by itself or to be incorporated with similar units at a building site into a modular structure. The term is intended to apply to major assemblies which must conform to the local building code, and does not include prefabricated

panels, trusses, plumbing trees, and other prefabricated sub-elements which are to be incorporated in a structure at the building site.

"Nonconforming uses, lots, structures" means any building, structure, or portion thereof, or use of any building or land which does not conform to the regulations of this title and which lawfully existed on the effective date of those regulations with which it does not conform.

"Overlay zone" means a zone district placed over other zones such that special zoning requirements are imposed in addition to those of the underlying zone. Development within the overlay zone must conform to the requirements of both zones or the more restrictive of the two (2) zones.

"Permanent zone" means a zone district which is established by ordinance.

"Premises" means any lot or combination of contiguous lots held in single ownership together with all development thereon.

"Recreational vehicle," "travel trailer" means a vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel and recreational purposes, and not permanently connected to utilities.

"Setback" means the required distance between every building or structure and any lot line on the lot on which it is located. Setbacks shall consist of an open space, unoccupied and unobstructed by any part of a building or structure, except as otherwise provided in this title. Structures exempt from setback regulations include walls, fences, signs, satellite dish antennas, and public utility poles and lines.

Setback, front. "Front setback" means an open area extending across the full width of a lot, the depth of which is the shortest distance between the front lot line and a building or structure located on said lot.

Setback, rear. "Rear setback" means an open area extending across the full width of a lot, the depth of which is the shortest distance between the rear lot line and a building or structure located on said lot.

Setback, side. "Side setback" means an open area not included in any front or rear setbacks of a lot and measured in width by the shortest distance between a side lot line and a building or structure located on said lot.

"Spot zoning" means assigning a lot, a parcel, or several lots or parcels a zoning classification inconsistent with that of the zone district in which it is located, with the effect of conferring special benefits or privileges upon particular property owners, or bringing about a detriment to the general welfare of the surrounding neighborhood.

"Structure" means anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, mobilehomes, walls, fences, billboards, and poster panels, but exclude sidewalks, driveways and uncovered

patios.

"Temporary zone" means a zone assigned to all territories annexed to the city of Belen which shall be effective from the date the annexation is effective until the date the city of Belen establishes a permanent zone by ordinance.

"Travel trailer court or campground" means any lot, tract or parcel of land licensed and used or offered for use in whole or in part, for the parking of occupied travel trailers, pick-up campers, converted buses, recreational vehicles, tent trailers, tents or similar devices used for temporary portable housing and used solely for living and/or sleeping purposes.

"Use" means the purpose for which land or a building is arranged, designed or intended, or for which land or a building is or may be occupied.

"Variance" means a relaxation of the terms of this title where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions of the applicant, a literal enforcement of this title would result in unnecessary and undue hardship. As used in this title, a variance may be authorized only for area, height, dimension, distance, setback, off-street parking, and off-street loading requirements.

"Zero lot line development" means a development approach in which a building is sited on one (1) or both of the side lot lines with an appropriate exemption from side setback requirements. The intent is to allow more flexibility in site design, and to increase the overall density of a small lot subdivision without sacrificing open space. Zero (0) lot line developments may include single-family detached dwelling units with one (1) wall of the building on a side property line, and multiple dwelling units with common walls placed along side property lines.

(Ord. No. 2015-14, 11-16-2015)

## Chapter 17.08 - ZONE DISTRICTS ESTABLISHED

### Sections:

#### 17.08.010 - Zone district boundaries.

- A. In order to carry out the provisions of this title, the city of Belen is divided into zone districts, as named and described in the following sections. The regulations prescribed in this title shall apply within the corporate limits of the city of Belen.
- B. The boundaries of said zone districts are established as shown on the Belen zoning atlas which shall be made a part of this title as if fully described herein. The official Belen zoning atlas shall consist of maps at a scale of one (1) inch equals two hundred (200) feet.

- C. When due to the scale, lack of detail or illegibility of the official Belen zoning atlas, there is any uncertainty, contradiction or conflict as to the intended location of any zone district boundaries shown thereon, interpretation concerning the exact location of zone district boundary lines shall be determined by the planning and zoning commission upon a written request.
- D. Abutting zone districts along frontage on a public right-of-way shall automatically extend to the center line upon vacation from public use of said right-of-way.

(Ord. No. 2015-14, 11-16-2015)

#### 17.08.020 - Zone district regulations.

For the purposes of this title, the following zone districts are established: A-R agricultural/residential; R-1 single-family residential; R-1A single-family mixed; R-2 multifamily residential; R-2A High density residential; R-3 small lot residential; R-4 medium residential; C-R commercial/residential; B-A Becker Ave. zone; C-1 general commercial; C-2 mixed use; M-C manufacturing/ commercial; M-1 industrial and business park; SU-1 special use zone. Uses permitted within each zone district shall be as indicated by the table of allowable land uses in this title. A use that is not permitted in a particular zone district shall not be considered an accessory use in that zone district. The general requirements of each zone district are as provided in the following sections.

(Ord. No. 2015-14, 11-16-2015)

### Chapter 17.12 - A-R AGRICULTURAL/RESIDENTIAL

#### Sections:

#### 17.12.010 - Intent.

The purpose of this zone is to provide for agricultural and related activities, and low density residential uses that are conducive to a rural atmosphere and do not attract large numbers of people. Residential density shall not exceed one (1) single-family dwelling unit per acre.

(Ord. No. 2015-14, 11-16-2015)

#### 17.12.020 - Accessory uses.

- A. Buildings or structures customarily incident to uses allowed in this zone district.
- B. Stands for the display and sale of agricultural products.
- C. Storage of a boat, camper, trailer, or other recreational vehicle as long as such boat, camper, trailer, or vehicle is not used as a dwelling or additional living quarters and is not connected to utilities. The boat, camper, trailer, or vehicle must be stored on private property.

- D. Home occupations are permitted only to the extent authorized by the definitions in this title.
- E. Fences or walls not exceeding six (6) feet in height in those areas within the rear or side setbacks of a lot, and not exceeding four (4) feet in height for a non-solid fence in those areas within the front setback of a lot and not exceeding three (3) feet in height for a wall or solid fence in those areas within the front setback of a lot.

(Ord. No. 2015-14, 11-16-2015)

#### 17.12.030 - Supplementary regulations.

- A. Height. No building or structure shall exceed thirty-five (35) feet except as otherwise provided in this title.
- B. Setback.
  - 1. Front, twenty (20) feet;
  - 2. Rear, fifteen (15) feet:
    - a. Accessory buildings may be located anywhere within the rear setback area provided that the accessory building is less than two hundred (200) square feet in floor area and there is a separation of no less than ten (10) feet between the accessory building and any other building on the lot or adjacent lots. Such building shall comply with chapter 15.32 drainage regulations of the Municipal Code and maintain any and all public utility easements.
    - b. An accessory building used as a garage for off-street parking with access to an alley shall maintain a setback of at least five (5) feet from the alley.
  - 3. Side, five (5) feet on each side.
- C. Off-Street Parking. Provided in chapter 17.56 of this title.
- D. Off-Street Loading. Provided in chapter 17.56 of this title.

(Ord. No. 2015-14, 11-16-2015)

### Chapter 17.16 - R-1 SINGLE-FAMILY RESIDENTIAL

#### Sections:

#### 17.16.010 - Intent.

The purpose of this zone is to allow conventional, on-site constructed, single-family dwelling units and those uses which are both compatible with and convenient to the residents of such a neighborhood. Density shall be limited to one (1) dwelling unit per lot. Land uses such as churches, schools, and parks are allowed.

(Ord. No. 2015-14, 11-16-2015)



**17.16.020 - Accessory uses.**

- A. Buildings or structures customarily incident to uses in this zone district.
- B. Storage of a boat, camper, trailer, or other recreational vehicle as long as such boat, camper, trailer, or vehicle is not used as a dwelling or additional living quarters and is not connected to utilities. The boat, camper, trailer or vehicle must be stored in a rear or side yard.
- C. Home occupations are permitted only to the extent authorized by the definitions in this title.
- D. Fences or walls not exceeding six (6) feet in height in those areas within the rear or side setbacks of a lot, and not exceeding four (4) feet in height for a non-solid fence in those areas within the front setback of a lot and not exceeding three (3) feet in height for a wall or solid fence in those areas within the front setback of a lot.

(Ord. No. 2015-14, 11-16-2015)

**17.16.030 - Supplementary regulations.**

- A. Area. Each lot shall have a minimum ground area of six thousand (6,000) square feet and a minimum width of sixty (60) feet.
- B. Setback.
  - 1. Front, twenty (20) feet;
  - 2. Rear, fifteen (15) feet:
    - a. Accessory buildings may be located anywhere within the rear setback area provided that the accessory building is less than two hundred (200) square feet in floor area and there is a separation of no less than ten (10) feet between the accessory building and any other building on the lot or adjacent lots. Such building shall comply with chapter 15.32 drainage regulations of the Municipal Code and maintain any and all public utility easements.
    - b. An accessory building used as a garage for off-street parking with access to an alley shall maintain a setback of at least five (5) feet from the alley;
  - 3. Side, five (5) feet on each side.
- C. Height. No building or structure shall exceed thirty-five (35) feet except as otherwise provided in this title.
- D. Off-Street Parking. Provided in chapter 17.56 of this title.

(Ord. No. 2015-14, 11-16-2015)

**Chapter 17.20 - R-1A SINGLE-FAMILY MIXED****Sections:****17.20.010 - Intent.**

The purpose of this zone is to provide for a mixture of detached, single-family housing types. The dwelling units in this zone district may include mobilehomes, modular housing units, and conventionally constructed homes. Density shall be limited to one (1) dwelling unit per lot. Normal accessory uses are allowed.

(Ord. No. 2015-14, 11-16-2015)

#### 17.20.020 - Accessory uses.

All accessory uses in this zone shall be the same as those listed in the R-1 zone district.

(Ord. No. 2015-14, 11-16-2015)

#### 17.20.030 - Supplementary regulations.

All supplementary regulations in this zone shall be the same as those listed in the R-1 zone district.

(Ord. No. 2015-14, 11-16-2015)

### Chapter 17.24 - R-2 MULTIFAMILY RESIDENTIAL

#### Sections:

#### 17.24.010 - Intent.

The purpose of this zone is to allow for a medium density residential district excluding uses which are not compatible with and convenient to the residents of such a district. Offices and certain nonresidential uses which are of particular convenience to the residents of this zone are allowed. Apartments, condominiums, and boarding houses are allowed in this zone.

(Ord. No. 2015-14, 11-16-2015)

#### 17.24.020 - Accessory uses.

- A. Buildings or structures customarily incident to uses in this zone district.
- B. Home occupations are permitted only to the extent authorized by the definitions in this title.
- C. Fences or walls not exceeding six (6) feet in height in those areas within the rear or side setbacks of a lot, and not exceeding four (4) feet in height for a non-solid fence in those areas within the front setback of a lot and not exceeding three (3) feet in height for a wall or solid fence in those areas within the front setback of a lot.

(Ord. No. 2015-14, 11-16-2015)

#### 17.24.030 - Supplementary regulations.

- A. Area. Each lot shall have a minimum ground area of seven thousand (7,000) square feet and a minimum width of seventy (70) feet.
- B. Floor area ratio, 1.0.
- C. Setback.
  - 1. Front, twenty (20) feet;
  - 2. Rear, fifteen (15) feet:
    - a. Accessory buildings may be located anywhere within the rear setback area provided that the accessory building is less than two hundred (200) square feet in floor area and there is a separation of no less than ten (10) feet between the accessory building and any other building on the lot or adjacent lots. Such building shall comply with chapter 15.32 drainage regulations of the Municipal Code and maintain any and all public utility easements.
    - b. An accessory building used as a garage for off-street parking with access to an alley shall maintain a setback of at least five (5) feet from the alley;
  - 3. Side, five (5) feet on each side.
- D. Height. No building or structure shall exceed forty-five (45) feet except as otherwise provided in this title.
- E. Off-street parking. Provided in chapter 17.56 of this title.
- F. Off-street loading. Provided in chapter 17.56 of this title.
- G. Paved off-street parking is required for structures containing three (3) or more dwelling units, and shall be constructed using standard curbing and pavement design specifications subject to review and approval by the city engineer.
- H. Landscaping is required on all multifamily residential lots to the extent that it enhances the appearance of the development, alleviates drainage problems, and blends with the surrounding area. Existing trees should be preserved to the extent possible. A minimum of ten (10) percent of total square footage of the lot area shall be devoted to landscaping. Landscaping will consist of a combination of grass, shrubs, gravel and trees, developer will provide irrigation system if necessary.
- I. Area lighting shall be provided in the development for safety and security purposes. All street lights shall be designed and placed in accordance with the subdivision design standards of the city of Belen.
- J. In the event a development is being proposed next to an irrigation ditch, the developer shall construct a six-foot tall chain link fence or a fence of similar construction along the property line which borders said irrigation ditch. Irrigation ditch shall be defined as a lateral or canal and shall not be meant to include a bar ditch or small ditch for individual use.
- K. A storm drainage management plan is required for all multifamily residential developments. It shall be in compliance with city drainage regulations and shall be subject to review and approval by the city engineer.

- L. Trash bins shall be provided in the amount the sanitation department feels necessary, and shall be three-sided with block or wood, and shall be six (6) feet in height. The placement of trash bin shall be approved by sanitation department for proper pickup.

(Ord. No. 2015-14, 11-16-2015)

#### 17.24.040 - Fees.

- A. For consideration of a variance application, one hundred fifty dollars (\$150.00);
- B. For consideration of a conditional use permit, one hundred fifty dollars (\$150.00);
- C. For consideration of zone changes and amendments to this chapter, two hundred fifty dollars (\$250.00);
- D. For consideration of an appeal to the city council under the provisions of this chapter, one hundred dollars (\$100.00);
- E. For consideration of mobile/manufactured homes on a permanent foundation, an installation permit fee of two hundred fifty dollars (\$250.00).
- F. For consideration of mobilehome park rental spaces for mobilehomes, recreational vehicles and camping trailers, an installation permit fee of twenty-five dollars (\$25.00).

(Ord. No. 2015-14, 11-16-2015)

### Chapter 17.25 - R-2A HIGH DENSITY RESIDENTIAL

#### Sections:

#### 17.25.010 - Intent.

The purpose of this zone is to allow for a high density residential district. Offices and certain nonresidential uses which are of particular convenience to the residents of this zone are allowed. Single-family detached, single-family attached, apartments, condominiums, and boarding houses are allowed in this zone.

(Ord. No. 2015-14, 11-16-2015)

#### 17.25.020 - Accessory uses.

- A. Buildings or structures customarily incidental to uses allowed in this zone district.
- B. Home occupations are permitted only to the extent authorized by the city of Belen's zoning ordinance.
- C. Fences or walls not exceeding six (6) feet in height may occur within the rear or side yard setbacks of the lot and not exceed four (4) feet in height for a non-solid fence or three (3) feet for a solid fence within the front yard setback of a lot.

Additional permitted and accessory uses are listed on the table of allowable land use.

(Ord. No. 2015-14, 11-16-2015)

17.25.030 - Supplementary regulations.

- A. Area. Each single-family lot shall have a minimum ground area of four thousand (4,000) square feet and a minimum width of forty (40) feet.
- B. Floor area ratio: 1.0.
- C. Setback.
  - 1. Front: ten (10) feet;
  - 2. Rear: fifteen (15) feet;
  - 3. Side: five (5) feet;
  - 4. Garage: twenty (20) feet for front facing;
  - 5. Garage: ten (10) feet for side turned;
  - 6. Alley: five (5) feet for garage.
- D. Height. No building or structure shall exceed forty-five (45) feet except as otherwise provided in this title.
- E. Off-street parking. Multifamily:
  - Two (2) spaces per two-bedroom unit;
  - One and one-half (1½) spaces per one-bedroom unit;
  - One (1) space per studio/efficiency unit.
- F. Off-street loading. Provided in chapter 17.56 of this title.
- G. Paved off-street parking is required for structures containing three (3) or more dwelling units, and shall be constructed using standard curbing and pavement design specifications subject to review and approval by the city engineer.
- H. Landscaping is required on all multifamily residential lots to the extent that it enhances the appearance of the development, alleviates drainage problems, and blends with the surrounding area. Existing trees should be preserved to the extent possible. A minimum of ten (10) percent of total square footage of the lot area shall be devoted to landscaping.
  - Landscaping will consist of a combination of grass, shrubs, gravel and trees, developer will provide irrigation system if necessary.
- I. Area lighting shall be provided in the development for safety and security purposes. All street lights shall be designed and placed in accordance with the subdivision design standards of the city of Belen.
- J. In the event a development is being proposed next to an irrigation ditch, the developer shall construct a six-foot tall chain link fence or a fence of similar construction along the property line which borders said irrigation ditch. Irrigation ditch shall not be meant to include a bar ditch or small ditch for individual

use.

- K. A storm drainage management plan is required for all multifamily residential developments. It shall be in compliance with city drainage regulations and shall be subject to review and approval by the city engineer.
- L. Trash bins shall be provided in the amount the sanitation department feels necessary, and shall be three-sided with block or wood, and shall be six (6) feet in height. The placement of trash bin shall be approved by sanitation department for proper pickup.

(Ord. No. 2015-14, 11-16-2015)

## Chapter 17.26 - R-3 SMALL LOT RESIDENTIAL

### Sections:

#### 17.26.010 - Intent.

The purpose of this zone is to allow for a medium density residential district with small lots for multiple or single-family detached dwelling units in order to provide affordable housing of conventional construction. Townhouses, condominiums, and zero lot line developments utilizing building lines or common walls along property lines are allowable in this zone. There shall be no more than one (1) dwelling unit per lot and not more than four (4) dwelling units shall be in a building. Nonresidential uses should be minimal or excluded from this zone district.

(Ord. No. 2015-14, 11-16-2015)

#### 17.26.020 - Accessory uses.

All accessory uses in this zone shall be the same as those listed in the R-2 zone district.

(Ord. No. 2015-14, 11-16-2015)

#### 17.26.030 - Supplementary regulations.

- A. Area. For single-family detached dwelling units, each lot shall have a minimum ground area of three thousand five hundred (3,500) square feet and a minimum width of thirty-five (35) feet. For multiple dwelling units such as townhouses, each lot shall have a minimum ground area of three thousand (3,000) square feet and a minimum width of twenty-five (25) feet.
- B. Floor area ratio: 1.0.
- C. Setback.
  - 1. Front: fifteen (15) feet;
  - 2. Rear: ten (10) feet;

- a. Accessory buildings may be located anywhere within the rear setback area provided that the accessory building is less than two hundred (200) square feet in floor area and there is a separation of no less than ten (10) feet between the accessory building and any other building on the lot or adjacent lots. Such building shall comply with chapter 15.32 drainage regulations of the Municipal Code and maintain any and all public utility easements.
- b. An accessory building used as a garage for off-street parking with access to an alley shall maintain a setback of at least five (5) feet from the alley;
- 3. There shall be no side setback with the following exceptions:
  - a. Ten-foot side setback on the street side of corner lots;
  - b. Ten-foot setback from the side lot line that separates the R-3 zone from another zone;
  - c. There shall be a separation of no less than ten (10) feet between single-family detached dwelling units and no less than fifteen (15) feet between buildings of multiple dwelling units.
- D. Height. No building or structure shall exceed thirty-five (35) feet except as otherwise provided in this title.
- E. Off-street parking. Provided in chapter 17.56 of this title.
- F. Off-street loading. Provided in chapter 17.56 of this title.
- G. Townhouse developments shall not exceed four (4) attached dwelling units per structure, each divided by common walls and each having a separate entrance at ground level.

(Ord. No. 2015-14, 11-16-2015)

## Chapter 17.27 - R-4 MEDIUM RESIDENTIAL

### Sections:

#### 17.27.010 - Intent.

The purpose of this zone is to allow for a variety of single-family detached and single-family attached (duplex units) lot sizes. This zone allows for a traditional compact residential neighborhood and those uses that are both compatible with and convenient to the residents of such a district. Offices and certain nonresidential uses which are of particular convenience to the residents of this zone are allowed.

(Ord. No. 2015-14, 11-16-2015)

#### 17.27.020 - Accessory uses.

- A. Buildings or structures customarily incidental to uses allowed in this zone district.
- B. Home occupations are permitted only to the extent authorized by the city of Belen's zoning ordinance.
- C.

Fences or walls not exceeding six (6) feet in height may occur within the rear or side yard setbacks of the lot and not exceed four (4) feet in height for a non-solid fence or three (3) feet for a solid fence within the front yard setback of a lot.

(Ord. No. 2015-14, 11-16-2015)

17.27.030 - Supplementary regulations.

- A. Area. Each lot shall have a minimum ground area of four thousand (4,000) square feet and a minimum width of forty (40) feet.
- B. Floor area ratio: 1.0.
- C. Setback.
  - 1. Front: ten (10) feet;
  - 2. Rear: fifteen (15) feet;
  - 3. Side: five (5) feet;
  - 4. Garage: twenty (20) feet for front facing;
  - 5. Garage: ten (10) feet for side turned;
  - 6. Alley: five (5) feet for garage.
- D. Height. No building or structure shall exceed forty-five (45) feet except as otherwise provided in this title.
- E. Off-street parking. Provided in chapter 17.56 of this title.
- F. Off-street loading. Provided in chapter 17.56 of this title.
- G. Paved off-street parking is required for structures containing three (3) or more dwelling units, and shall be constructed using standard curbing and pavement design specifications subject to review and approval by the city engineer.
- H. Landscaping is required on all multifamily residential lots to the extent that it enhances the appearance of the development, alleviates drainage problems, and blends with the surrounding area. Existing trees should be preserved to the extent possible. A minimum of ten (10) percent of total square footage of the lot area shall be devoted to landscaping.

Landscaping will consist of a combination of grass, shrubs, grave and trees, developer will provide irrigation system if necessary.
- I. Area lighting shall be provided in the development for safety and security purposes. All street lights shall be designed and placed in accordance with the subdivision design standards of the city of Belen.
- J. In the event a development is being proposed next to an irrigation ditch, the developer shall construct a six-foot tall chain link fence or a fence of similar construction along the property line which borders said irrigation ditch. Irrigation ditch shall not be meant to include a bar ditch or small ditch for individual use.
- K.



A storm drainage management plan is required for all multifamily residential developments. It shall be in compliance with city drainage regulations and shall be subject to review and approval by the city engineer.

- L. Trash bins shall be provided in the amount the sanitation department feels necessary, and shall be three-sided with block or wood, and shall be six (6) feet in height. The placement of trash bin shall be approved by sanitation department for proper pickup.

(Ord. No. 2015-14, 11-16-2015)

## Chapter 17.28 - C-R COMMERCIAL/ RESIDENTIAL

### Sections:

#### 17.28.010 - Intent.

The purpose of this zone is to permit a limited mixture of residential and retail commercial activities. This zone establishes and preserves areas for those commercial facilities which are essentially useful in close proximity to residential areas, while minimizing the undesirable impact of such commercial uses on the neighborhoods which they service. Any commercial establishment, other than a home occupation, located in this zone shall contain a total floor area no greater than four thousand (4,000) square feet.

(Ord. No. 2015-14, 11-16-2015)

#### 17.28.020 - Accessory uses.

All accessory uses in this zone shall be the same as those listed in the R-2 zone district.

(Ord. No. 2015-14, 11-16-2015)

#### 17.28.030 - Supplementary regulations.

All supplementary regulations in this zone shall be the same as those listed in the R-2 zone district, except that signs indicating a commercial or business establishment may not exceed forty (40) square feet per sign with a minimum width of two (2) feet.

(Ord. No. 2015-14, 11-16-2015)

## Chapter 17.30 - BECKER AVENUE ZONE

### Sections:

### 17.30.010 - Intent.

The purpose of this zone is to promote the revitalization of historic Becker Avenue and to maintain a special character of mixed-use development for the properties along the street. This zone is also intended to provide a pedestrian-friendly atmosphere and a gathering place for the community. To the extent possible, historical and cultural elements of the properties along Becker Avenue shall be preserved and enhanced.

(Ord. No. 2015-14, 11-16-2015)

### 17.30.020 - General provisions.

- A. The Becker Avenue Zone shall be delineated on the Belen zone atlas. All properties that have frontage along Becker Avenue from Main Street to First Street shall be included in the Becker Avenue Zone.
- B. The Becker Avenue Zone shall be administered as an additional zone district with special requirements. Any development within the Becker Avenue Zone shall be subject to the administrative procedures and regulations provided in this section.

(Ord. No. 2015-14, 11-16-2015)

### 17.30.030 - Regulations.

- A. Building Height. No building or structure shall exceed forty-five (45) feet in height.
- B. Building Design. In order to preserve and enhance the special character within the Becker Avenue Zone, buildings shall be designed using the following guidelines:
  - 1. Painting or decorating buildings with bold patterns or large graphics, or using buildings as signs is prohibited.
  - 2. Thin skin "curtain wall" buildings including aluminum siding, metal panels, and mirrored or otherwise dominating glass, are prohibited.
  - 3. In order to continue a visual pattern of historic architectural elements reflected through brick building construction, at least fifty (50) percent of the total facade on all new or reconstructed buildings fronting Becker Avenue shall be composed of brick.
  - 4. Exterior mounted mechanical and electrical equipment, including solar hardware and satellite dish antennas, shall be architecturally screened.
- C. Signs. All signs in the Becker Avenue Zone shall conform to sign regulations provided in chapter 17.58 of the Belen Municipal Code.
- D. Pedestrian Walkways. A minimum of twelve (12) feet measured from the curb line into abutting properties shall be reserved and developed for pedestrian activity. There shall be no obstruction within a pedestrian walkway which would impede pedestrian circulation. The minimum width of pedestrian walkways shall be six (6) feet, to allow for wheelchair access.

- E. **Off-Street Parking.** The off-street parking requirements defined in chapter 17.56 of the Belen Municipal Code may be reduced by a maximum of fifty (50) percent of the total number of spaces pertaining to the list of land uses in section 17.56.010. The reduction of spaces required for land uses in the Becker Avenue Zone shall be subject to the administrative procedures provided in this chapter.
- F. **Street Trees.** Within five (5) feet of the curb line of Becker Avenue, trees shall be planted approximately every thirty (30) linear feet of street frontage. General policies for street trees are as follows:
1. Whenever possible, street trees shall be placed between the curb and pedestrian walkways.
  2. Suitable street trees for Becker Avenue are mostly hardwood, non-fruit-bearing, deciduous trees. Low water consumption and nonallergenic trees are preferable.
  3. Adequate vertical clearance below street tree branches shall be maintained at no less than eight (8) feet over pedestrian walkways and nine (9) feet over streets.
- G. **Area Lighting.** The lighting of buildings and parking lots within the Becker Avenue Zone shall conform to the following guidelines:
1. The exterior lighting of any buildings, structures and surrounding grounds shall provide illumination for safety purposes, and shall be placed and screened such that it does not shine directly or reflect into any adjoining residential properties or streets.
  2. Fixtures used in exterior lighting shall be selected for functional and aesthetic value and shall not contain fluorescent lamps.
  3. Parking lot lighting shall provide for adequate security but must be shielded to prevent light from shining directly onto abutting residential lots.
- H. **Drainage.** In areas where a centralized stormwater collection system is not available, on-site stormwater retention shall be directed to the back portion of the lot.

(Ord. No. 2015-14, 11-16-2015)

#### 17.30.040 - Administrative procedures.

- A. **Site Plan Required.** All development, redevelopment, and major improvements to property within the Becker Avenue Zone shall be constructed in accordance with a site plan which shall be reviewed and accepted by the zoning enforcement officer to establish compliance with the regulations provided herein. The site plan shall contain the following:
1. A plat or property map plan showing the location, dimensions, height, and setback of all buildings and structures on the development site;
  2. Location and description of all signs, lighting, parking and loading areas, traffic access and circulation routes, and pedestrian areas;
  3. Preliminary sketch drawings or elevations of proposed buildings;
  4. A landscaping plan showing location and type of street trees and other proposed and existing vegetation of the development site.

- B. **Plan Review and Acceptance.** In order to obtain acceptance for any proposed development within the Becker Avenue Zone, the required site plan shall be submitted to the zoning enforcement officer who shall determine compliance with the provisions and intent of the Becker Avenue Zone. A written decision of acceptance or non-acceptance shall be rendered by the zoning enforcement officer within thirty (30) days following receipt of the required site plan. Such written decision shall provide any special conditions of acceptance, or reasons for non-acceptance if applicable. Appeal of any decision of the zoning enforcement officer may be carried out through the provisions established by the appeal process in the comprehensive zoning ordinance of the city of Belen.

(Ord. No. 2015-14, 11-16-2015)

## 17.32 - C-1 GENERAL COMMERCIAL

### Sections:

#### 17.32.010 - Intent.

The purpose of this zone is to provide for those commercial uses which serve the community on a day-to-day basis such as retailing, financial, and personal services.

(Ord. No. 2015-14, 11-16-2015)

#### 17.32.020 - Accessory uses.

All accessory uses in this zone shall be the same as those listed in the R-2 zone district.

(Ord. No. 2015-14, 11-16-2015)

#### 17.32.030 - Supplementary regulations.

- A. **Area.** Any lot under a residential use shall have a minimum ground area of seven thousand (7,000) square feet and a minimum width of seventy (70) feet.
- B. **Setback.** Any lot under a residential use shall have the same setback requirements as those prescribed in the R-2 zone district. Any lot in commercial use shall have a front setback of six (6) feet.
- C. **Height.** No building or structure shall exceed forty-five (45) feet except as otherwise provided in this title.
- D. **Off-Street Parking.** Provided in chapter 17.56 of this title.

(Ord. No. 2015-14, 11-16-2015)

## Chapter 17.33 - C-2 MIXED USE

## Sections:

### 17.33.010 - Intent.

The purpose of this zone is to permit a mixture of housing, office, retail, entertainment, medical, and civic uses.

- Encourage a greater intensity of development in order to attract the people and commerce necessary to create a vibrant and diverse urban center.
- Encourage a blending of residential, civic, commercial and office uses in close proximity to each other with active commercial and retail uses along arterial and collector street frontages, and encouraging residential uses above the ground floor or behind a commercial building that fronts the street.
- Encourage a mixture of service and employment uses so that residents will have the opportunity to work as well as shop and play within walking distance from their homes.
- Encourage planning, design and detailing that reflects the needs of pedestrians, establishes multi-model circulation opportunities, and creates memorable civic spaces.
- Encourage the use of multi-modal transportation systems and reduce the amount of impervious surface.

(Ord. No. 2015-14, 11-16-2015)

### 17.33.020 - Accessory uses.

- A. Buildings or structures customarily incidental to uses allowed in this zone district.
- B. Home occupations are permitted only to the extent authorized by the city of Belen's zoning ordinance.
- C. Fences or walls not exceeding six (6) feet in height may occur within the rear or side yard setbacks of a residential lot and not exceed four (4) feet in height for a non-solid fence or three (3) feet for a solid fence within the front yard setback of a lot, unless buffering is required.
- D. Accessory structures are not allowed in front or side yards facing a public street and shall not exceed two hundred (200) square feet in floor area.
- E. Trash containers and trash compactors shall be at least fifteen (15) feet from the property line when adjacent to land planned or zoned for a single-family residential.
  - Trash containers and trash compactors shall be screened from a public right-of-way by decorative wall or enclosure and shall be not less than two (2) feet above the height of the trash container or compactor.

F.

Flag poles twenty-five (25) feet from any property line, with a maximum height of thirty-five (35) feet. Pole heights greater than thirty-five (35) feet may be approved by a conditional use permit.

Additional permitted and accessory uses are listed on the revised table of allowable land use (see [section 17.48.010](#)).

(Ord. No. 2015-14, 11-16-2015)

#### 17.33.030 - Supplementary regulations.

- A. Setback. Minimum setbacks as measured from property line or right-of-way.
  - 1. Mixed use front: zero (0) feet;
  - 2. Mixed use rear: fifteen (15) feet;
  - 3. Mixed use side: zero (0) feet.
- B. Height. No building or structure shall exceed sixty-five (65) feet except as otherwise provided for in the city of Belen's zoning ordinance.
- C. Off-Street Parking. Shall be required as set forth in [chapter 17.56](#) of this title, except for:
  - Street frontage for pedestrian connections and circulation. On site with multiple buildings, parking is allowed in front of or between buildings that are interior to the site.
  - Application requests for a reduction in the number of required off-street parking spaces as the result of shared parking will be considered.
  - Shopping centers shall provide a minimum of four (4) parking spaces per one thousand (1,000) square feet of floor area.
- D. Loading. Loading shall be integrated within the site plan and wherever possible integrated within the building's architecture. Innovative loading solutions are to be encouraged.

(Ord. No. 2015-14, 11-16-2015)

#### 17.33.040 - Development regulations.

- A. Consideration for Approval.
  - 1. Plans should comply with the intent and requirements of a mix of land uses set forth herein and not be used for a single land use.
  - 2. Plans must include residential and nonresidential uses within or in close proximity to the district with shared access and adequate pedestrian linkages.
  - 3. The total area of the proposed development must be a minimum of two (2) acres, but may be smaller with an approved conditional use permit.
  - 4. Plan may also include civic or community building, public utility and/or public spaces within the district.

**B. Development Review Process.**

1. An applicant wishing to develop property zoned C-2 must submit a master plan and design and development guidelines for the mixed use development for a preliminary review.
2. Following preliminary review, the application will be subject to the review and approval of the planning and zoning commission.
3. Upon approval, the master plan and accompanying documents will be used as the official guide for future development within the district.
4. Site development within the district will require the submission of a site development permit application. The site development permit application will be evaluated based on compliance with the approved master plan and guidelines.

C. Landscaping. Landscaping shall provide visual relief of the zoning district, with safe, comfortable and attractive spaces for pedestrians. Landscaping will be evaluated as part of the submittal process. Landscaping requirement for buffering shall be as established in the M-1 Zone.

D. Lighting. Lighting shall comply with the Night Sky Protection Act and be shielded and placed to direct the light away from adjacent properties.

(Ord. No. 2015-14, 11-16-2015)

**Chapter 17.36 - MAIN STREET OVERLAY ZONE****Sections:****17.36.010 - Intent.**

The purpose of this zone is to promote and protect a special character and human scale of development along Main Street in the city of Belen. This zone is also intended to improve the safety and desirability of walking along Main Street.

(Ord. No. 2015-14, 11-16-2015)

**17.36.020 - General provisions.**

- A. This overlay zone shall apply to any lot within the city of Belen which is contiguous to Main Street, from the northerly boundary of the city to the southerly boundary of the city.
- B. The Main Street Overlay Zone shall appear on the Belen zone atlas superimposed on other zones, and its regulations shall supplement those of the underlying zones.

(Ord. No. 2015-14, 11-16-2015)

**17.36.030 - Regulations.**

- A. **Setback.** A minimum setback of ten (10) feet is required and shall be measured from any building on the premises to the lot line contiguous with Main Street. Varied setback on abutting lots is encouraged.
- B. **Building Height.** No building shall exceed forty-five (45) feet in height.
- C. **Building Design and Maintenance.** In order to minimize blight and to preserve the small town character within this overlay zone, buildings shall be designed and maintained using the following guidelines:
  - 1. Buildings shall be designed to appear more as an aggregation of smaller building blocks rather than a single large block or box.
  - 2. Exterior facade of buildings shall be constructed and maintained to exhibit earth tone materials. Brick, stone and/or painting to reflect brick and stone facade is encouraged. Painting or decorating buildings with bold patterns or large graphics, or using buildings as signs shall be at the approval of the city.
  - 3. Thin-skin curtain wall buildings, including aluminum siding, metal panels, and mirrored or otherwise dominating glass, are prohibited.
  - 4. Exterior mounted mechanical and electrical equipment, including solar hardware and satellite dish antennas, shall be architecturally screened.
- D. **Signs.** As per the Municipal Code dealing with sign regulations.
- E. **Pedestrian Walkways.** A minimum of ten (10) feet from the curb line into the abutting properties shall be reserved and developed for pedestrian activity. There shall be no obstruction within a pedestrian walkway which would impede pedestrian circulation.
- F. **Off-Street Parking.** To the extent possible, required off-street parking shall be located behind buildings with access to Main Street. When parking areas are visible from Main Street, they shall be screened from view by vegetation, planters, or other similar means.
- G. **Street Trees.** Within ten (10) feet of the curb line of Main Street, trees shall be planted approximately every thirty (30) linear feet of the street frontage. General policies for street trees are as follows:
  - 1. Wherever possible, street trees shall be placed behind the curb and sidewalk;
  - 2. Suitable street trees are mostly hardwood, non-fruiting, deciduous trees;
  - 3. Adequate vertical clearance below street tree branches shall be maintained at no less than seven (7) feet over pedestrian walkways and eight (8) feet over streets;
  - 4. Maintenance and trimming of street trees and replacement of dead trees is the responsibility of the abutting lot owner;
  - 5. Street trees shall be located so as to not interfere with the function for any underground utility lines.
- H. **Area Lighting.** The lighting of buildings and parking lots within this overlay zone shall conform to the following guidelines:
  - 1.



The exterior lighting of any buildings, structures and surrounding grounds shall provide illumination safety purposes, and shall be placed and screened such that it does not shine directly or reflect into any adjoining residential properties or streets;

2. Fixtures used in exterior lighting shall be selected for functional and aesthetic value and shall not contain fluorescent lamps;
3. Parking lot lighting shall not emit light beyond the development;
4. Must conform with the Night Sky Protection Act on outdoor night lighting fixtures to preserve and enhance the state's dark sky while promoting safety, conserving energy and preserving the environment for astrological views.

I. Drainage. As per the Municipal Code drainage regulations.

(Ord. No. 2015-14, 11-16-2015)

#### 17.36.040 - Procedures.

- A. Plan Required. All development and improvements to property within the Main Street Overlay Zone shall be constructed in accordance with a site plan approved by the city. Such site plan shall include the following:
  1. A plot plan showing the location, dimensions, height, and setback of all buildings and structures on the development site;
  2. Location and description of all signs, lighting, parking and loading areas, traffic access and circulation routes, and pedestrian areas;
  3. Preliminary sketch drawings or elevations of proposed buildings;
  4. A landscaping plan showing location and type of street trees and other proposed and existing vegetation on the development site.
- B. Plan Review and Approval. In order to obtain approval for any proposed development within the Main Street Overlay Zone, the required site plan shall be submitted to the planning and zoning officer which shall determine compliance with the provisions and intent of the Main Street Overlay Zone. An appeal of any decision by the zoning officer shall be carried out through the provisions established by the appeal process in the comprehensive zoning municipal code of the city of Belen.

(Ord. No. 2015-14, 11-16-2015)

#### Chapter 17.40 - M-C MANUFACTURING/COMMERCIAL

##### Sections:

#### 17.40.010 - Intent.

The purpose of this zone is to allow for light industry, warehousing, heavy commercial, and wholesaling operations. The activities in this zone must be environmentally compatible to the community. Residential uses are not allowed.

(Ord. No. 2015-14, 11-16-2015)

#### 17.40.020 - Accessory uses.

Buildings or structures customarily incident to uses in this zone district are allowed.

(Ord. No. 2015-14, 11-16-2015)

#### 17.40.030 - Supplementary regulations.

- A. Off-Street Parking. Provided in chapter 17.56 of this title.
- B. Off-Street Loading. Provided in chapter 17.56 of this title.

(Ord. No. 2015-14, 11-16-2015)

### Chapter 17.41 - M-1 INDUSTRIAL AND BUSINESS PARK

#### Sections:

#### 17.41.010 - Intent.

The purpose of this zone is to allow for heavy commercial and manufacturing uses which do not create danger and which do not create excessive offensive noise, vibration, smoke, dust, lint, odors, heat, or glare to an adjoining land use.

What constitutes and offensive noise, vibration, smoke, dust, lint, odors, heat, or glare shall be determined by an official zoning enforcement officer or a city police officer.

(Ord. No. 2015-14, 11-16-2015)

#### 17.41.020 - Uses.

Industrial and business park uses include, but are not limited to, the following:

- A. All uses of the C-2, and M-C district unless omitted in the allowable land use table. All regulations of the allowable land use table and zoning districts shall be met;
- B. Laboratories, research, and experimental stations;
- C. Manufacturing uses;

- D. Public utility including production and disposal facilities, storage yard, or supply base;
- E. Tire recapping or retreading;
- F. Concrete batching plants, concrete products companies and concrete contractors provided:
  - 1. Appropriate dust control devices be installed and operable;
  - 2. Appropriate screening be erected to avoid unsightly operations;
- G. Boarding kennels or pet shelters;
- H. Conditional uses (requiring permit):
  - 1. Automobile dismantling yard, provided:
    - a. All activities are conducted in a completely enclosed building or are enclosed by a solid wall or solid fence at least eight (8) feet high;
    - b. Inoperative automobile bodies or portions thereof may be stacked to a height that does not exceed the height of the required wall.

(Ord. No. 2015-14, 11-16-2015)

17.41.030 - Supplementary regulations.

- A. Height restriction, forty-five (45) feet.
- B. Area minimum, one-half (½) acre (twenty-one thousand seven hundred eighty (21,780) square feet).
- C. Setbacks.
  - 1. Front, ten (10) feet.
  - 2. Rear, fifteen (15) feet unless abutting a residential zone, then a twenty-five-foot setback with a ten-foot landscaped buffer is required for buildings up to thirty-five (35) feet in height. For portions of a building greater than thirty-five (35) feet in height, the building shall have a setback of one (1) foot for each additional four (4) feet of height up to the maximum height of the district.
  - 3. Side, zero (0) feet unless abutting a residential zone, then a twenty-five-foot setback with a ten-foot landscaped buffer is required for building up to thirty-five (35) feet in height. For portions of a building greater than thirty-five (35) feet in height, the building shall have a setback of one (1) foot for each additional four (4) feet of height up to the maximum height of the district.
  - 4. Corner side, ten (10) feet.
  - 5. Trash containers and trash compactors one hundred fifteen (115) feet from the property line when adjacent to land planned or zoned for residential use.
    - All trash containers and trash compactors shall be screened from a public right-of-way by a decorative wall or enclosure and shall be not less than two (2) feet above the height of the trash container or compactor.
  - 6. Flag poles twenty-five (25) feet from any property line, with a maximum height of forty-five (45) feet. Poles heights greater than forty-five (45) feet may be approved by a conditional use permit.

- D. Off-Street Parking. Shall be required as set forth in chapter 17.56 of this title, except for shopping centers shall be a minimum of four (4) spaces per one thousand (1,000) square feet of floor area.
- Mixed-use facilities parking shall conform to the city of Belen's zoning code with best practice standards applied for shared parking ratios to encourage the use of multi-modal transportation systems and reduce the amount of impervious surface.
- E. Off-Street Loading. Shall be required as set forth in chapter 17.56 of this title.
- Loading shall be integrated within the site plan and wherever possible integration within the buildings architecture. Innovative loading solutions are to be encouraged.
- F. Landscaping. Shall be required as set forth in chapter 17.56 of this title.
- G. Buffer Zone. Buffering shall be required to separate this zone from other land use designations.
1. Buffer walls, berms, or landscaping shall require city approval before being implemented. After approval, all city requirements shall be adhered to.
  2. Buffer landscaping shall be maintained and kept clean of debris and weeds. Any buffer planting shall be maintained permanently and any plant material which does not live shall be replaced within one (1) year or one (1) growing season.
  3. Buffer lighting. Any lighting within the buffer zone shall comply with the Night Sky Protection Act and shielded and placed to direct the light away from adjacent properties.

(Ord. No. 2015-14, 11-16-2015)

## Chapter 17.44 - SU-1 SPECIAL USE ZONE

### Sections:

#### 17.44.010 - Intent.

This zone permits only those uses which require special consideration because of their unusual nature, dimensions, frequency of occurrence, effect on surrounding property, or other similar reason. The boundaries of this zone district shall be determined only on a case-by-case basis following the procedures for a zone change as provided in this title. Any accessory uses shall be approved by the city council. Supplementary regulations and special conditions may be imposed by the city council upon recommendation by the planning and zoning commission. The city council may not grant a zone change for special use unless satisfactory provisions have been made:

- A. To assure that the degree of compatibility of property uses shall be maintained with respect to the special use and the surrounding uses of property in the general area;
- B. To preserve the integrity and character of the zone in which the use will be located, and the utility and value of property in the special use zone and in adjacent zones; and

- C. To assure that the use will not be or become detrimental to the public interest, health, safety, convenience, or the general welfare.
- D. To allow a combination of uses not otherwise permitted in an underlying district.

(Ord. No. 2015-14, 11-16-2015)

#### 17.44.020 - Uses.

Special uses include but are not limited to the following:

- A. Airports, including aircraft sales and service.
- B. Automobile wrecking, dismantling, and salvage provided that:
  - 1. All activities are conducted within a completely enclosed building or within an area enclosed on all sides by a solid wall or fence at least six (6) feet in height, and the principal building is not within two hundred (200) feet of a lot in residential use or zoned primarily for residential use.
  - 2. Inoperative automobile bodies may not be stacked above the plane established by the top of the required surrounding wall.
- C. Cemetery, mausoleum, or crematory provided that any site for a new cemetery shall contain at least five (5) acres.
- D. Correction, detention, or penal institution.
- E. Explosives storage, manufacture, or sales, provided that all buildings shall not be within five hundred (500) feet of any lot in residential use, unless sufficient blast, explosion, or fire confinement structures are installed according to national standards.
- F. Fairgrounds, baseball park complex, or stadium.
- G. Fuel wholesalers and storage (gasoline, liquefied petroleum) provided that all principal structures such as storage tanks shall not be within five hundred (500) feet of any lot in residential use, unless sufficient blast, explosion, or fire confinement structures are installed according to national standards.
- H. Feed lot operation; livestock auction.
- I. Golf course; driving range.
- J. Junk yard or salvage operation provided that all activities are conducted within a completely enclosed building or within an area enclosed on all sides by a solid wall or fence at least six (6) feet in height.
- K. Mobilehome parks, subject to the following regulations:
  - 1. The minimum park size shall be three (3) acres.
  - 2. Maximum density shall be eight (8) mobilehomes per acre.
  - 3. Each mobilehome shall be situated on a space of at least three thousand five hundred (3,500) square feet.

4. At least two (2) off-street parking spaces per mobilehome is required.
5. No mobilehome shall be located within twenty (20) feet of any other mobilehome. Any mobilehome shall be at least twenty-five (25) feet from the right-of-way line of any public street and at least ten (10) feet from any property line of the mobilehome park.
6. A common area for recreational use by park residents shall be developed and situated in a central location within the mobilehome park. At least three hundred (300) square feet of usable open space per mobilehome is required.
7. A mobilehome park shall have at least one (1) entrance drive from a public street, and access to individual units shall be from private paved drives within the site. A paved walk shall be located along at least one (1) side of each drive. The width and design of the entrance drive and access drives shall be adequate to accommodate fire protection vehicles and equipment. All paved driveways, curbs, gutters, and walkways within the mobilehome park shall be constructed in accordance with the subdivision design standards of the city of Belen.
8. A storm drainage management plan for the mobilehome park is required in accordance with the new drainage ordinance regulations. The mobilehome park shall be graded to retain localized stormwater on site. All graded slopes shall be protected from wind and water erosion through acceptable stabilization methods. These may include revegetation, terraced retaining walls of appropriate materials and construction, or erosion control netting. All drainage facilities shall be constructed and designed in accordance with the subdivision design standards of the city of Belen.
9. All utility lines providing electric and telecommunication services within the mobilehome park shall be placed underground. Individual utility service meters shall be placed in the front portion of a mobilehome space and shall be visible and accessible for monitoring purposes. All water and sanitary sewer systems shall be designed and constructed in accordance with the subdivision design standards of the city of Belen.
10. Landscaping is required within mobilehome parks to the extent that it enhances the appearance of the development, alleviates drainage problems, and blends with the surrounding area. Existing trees should be preserved to the extent possible.
11. Area lighting shall be provided in the mobilehome park for safety and security purposes. All street lights shall be designed and placed in accordance with the subdivision design standards of the city of Belen.
12. No mobilehome shall be occupied unless it is connected to adequate utilities, provided with skirting of a durable material, and stabilized and anchored in accordance with regulations promulgated by the Manufactured Housing Act of New Mexico (60-14-1 et seq. NMSA 1978).
13. In the event a development is being proposed next to an irrigation ditch the developer shall construct a six-foot tall chain link fence or a fence of similar construction along the property line which borders said irrigation ditch. Irrigation ditch shall be defined as a lateral or canal and shall not be meant to include a bar ditch or small ditch for individual use.

- L. Manufactured home subdivisions, subject to the following regulations:
1. Manufactured homes shall be used as residences, one (1) dwelling unit per lot, and installed on permanent foundations.
  2. Manufactured homes shall meet the construction requirements of manufactured housing; contain a heated area of at least twenty-four (24) by thirty-six (36) feet, or at least eight hundred sixty-four (864) square feet, as stated in the Manufactured Housing and Zoning Act (3-21A-1 et seq. NMSA 1978).
  3. The minimum lot size shall be at least four thousand five hundred (4,500) square feet.
  4. At least two (2) off-street parking spaces shall be required for each manufactured home, either on the lot or in designated parking areas located within one hundred (100) feet of such lot.
  5. Front setback for manufactured homes shall be at least twenty (20) feet.
  6. Side setback for manufactured homes shall be at least five (5) feet.
  7. Rear setback for manufactured homes shall be at least ten (10) feet.
  8. Usable open space shall be provided within the subdivision at five hundred (500) square feet per dwelling unit.
  9. A storm drainage management plan for the manufactured home subdivision is required in accordance with the new drainage ordinance regulations. The manufactured home subdivision shall be graded to retain localized stormwater on site. All graded slopes shall be protected from wind and water erosion through acceptable stabilization methods. These may include revegetation, terraced retaining walls of appropriate materials and construction, or erosion control netting. All drainage facilities shall be constructed and designed in accordance with the subdivision design standards of the city of Belen.
  10. All utility lines providing electric and telecommunication services within the manufactured home subdivision shall be placed underground. Individual utility service meters shall be placed in the front portion of a manufactured home space and shall be visible and accessible for monitoring purposes. All water and sanitary sewer systems shall be designed and constructed in accordance with the subdivision design standards of the city of Belen.
  11. Landscaping is required within a manufactured home subdivision to the extent that it enhances the appearance of the development, alleviates drainage problems, and blends with the surrounding area. Existing trees should be preserved to the extent possible.
  12. Area lighting shall be provided in the manufactured home subdivision for safety and security purposes. All street lights shall be designed and placed in accordance with the subdivision design standards of the city of Belen.
  13. All engineering designs shall meet the requirements of the city of Belen subdivision design standards.
  14. The site development plan and all required submittals shall be in accordance with the subdivision regulations for the city of Belen plat approval.

- M. Sand and gravel operations provided that any depleted land shall be rehabilitated in accordance with the following requirements:
  - 1. Grading or backfilling shall be made with non-noxious and noncombustible solids.
  - 2. Graded or backfilled land shall not collect and permit stagnant water to remain therein.
  - 3. Peaks and depressions of the area shall be reduced to a surface which will result in topography in substantial conformity to the land area immediately surrounding and which will minimize erosion caused by rainfall and runoff.
- N. Schools; university or college.
- O. Theater (drive-in) subject to the following regulations:
  - 1. Ingress and egress for any site abutting a state highway shall be approved in writing by the state highway department.
  - 2. Reservoir off-street standing space or side service road space shall be provided at any entrance sufficient to accommodate vehicles in an amount equal to at least twenty (20) percent of the vehicular capacity of the theater.
  - 3. Any screen less than five hundred (500) feet from a county arterial or state highway shall be so located or shielded that the picture surface cannot be seen from such highway.
- P. Any use or combination of uses, not otherwise permitted under a specific zoning district.

(Ord. No. 2015-14, 11-16-2015)

#### 17.44.030 - Development plans.

Each application for a special use zone shall be accompanied by development plans which shall:

- A. Be drawn to a minimum scale of 1"=100'.
- B. Show boundaries of the property to be developed and the topography both before and after development is completed.
- C. Show the proposed size, location, use, and arrangement of all structures, parking and loading areas, drainage facilities, landscaping and traffic and pedestrian circulation routes.
- D. Indicate the location, type, use, and size of structures on adjacent properties within two hundred (200) feet of the proposed development.

(Ord. No. 2015-14, 11-16-2015)

#### 17.44.040 - Discontinued uses.

In the event that a use authorized as a special use zone is permanently discontinued by the owner, the special use zone may be cancelled and removed from the Belen zoning atlas under the provisions for a zone change in this title. That area delineated by such discontinued special use zone shall be rezoned to the



prevailing surrounding zone district as determined by the city council. The city council shall act as the moving party under the conditions of this section.

(Ord. No. 2015-14, 11-16-2015)

## Chapter 17.48 - ALLOWABLE LAND USES

### Sections:

#### 17.48.010 - Table of allowable land uses.

The following table indicates allowable land uses in specific districts of the city of Belen:

X = Permitted use

C = Conditional use

C\* = Conditional use (six-month permit)

A-R = Agricultural/Residential	R-1 = Single-Family Residential
R-1A = Single-Family Mixed	R-2 = Multifamily Residential
R-2A = High Density Residential	R-3 = Small Lot Residential
R-4 = Medium Residential	C-R = Commercial/Residential
C-1 = General Commercial	C-2 = Mixed Use

Allowable Land Uses	A-R	R-1	R-1A	R-2	R-3	C-R	C-1	M-C	SU-1	B-A	R-2A	R-4	C-2	M-1
Airports; aircraft sales and service									X					X
Ambulance service							X	X						X

Amusement parks; carnival; circus	C*						C*	C*		C*				C
Animal shelter; dog pound; kennel	C						X	X						X
Antique dealers							X	X		X			X	C
Appliance store; repairs							X	X					X	C
Armory							C	C						C
Art gallery; art schools						X	X	X		X			X	
Auction houses (excluding livestock)							X	X					X	X
Automobile sales; service; repair							X	X					C	X
Automobile rental							X	X					C	
Automobile wrecking, dismantling, salvage									X					C
Bakery, confectionery store (retail)						X	X			X			X	
Bakery, candy and confectionery manufacture (wholesale)							X	X					C	X
Ballrooms; dancing instruction						C	X			X			X	

Bank; savings and loan; trust company							X			X			X	
Bars, lounges, and package liquor stores							X			C			X	
Barber or beauty shop				C	C	X	X	C		X			X	C
Batching plant (concrete or asphalt)								X						X
Bed and breakfast							X			X	C	C	X	
Boat dealers; marine supplies							X	X		X				X
Book store						X	X	X					X	
Bottling plant								X						X
Boutique Winery; Craft Brewing						C	X			C			X	
Bowling alley							X	X		X			X	
Brewery; Winery													C	X
Brick products; manufacture								X						X
Buildings; prefab assembly								X						X
Bus lines (depot and maintenance)							X	X					C	X

Cabinet makers						C	X	X					C	X
Camper equipment, retail sales						X	X	X					X	X
Candle manufacturing; wholesaling							X	X						X
Care home, assisted living, senior housing, group home				C	C	C	X			X	C	C	X	
Car wash							X	X					X	C
Carpet and rug cleaners							X	X					X	C
Castings; tool and die maker; foundry								X						
Cemetery; mausoleum; crematory									X					X
Ceramics manufacturing							C	X		X				
Chemical manufacturing or processing								X						X
Child care center					X	X	X			X	X	X	X	
Churches; places of worship	X	X	X	X	X	X	X	X		X	X	X	X	
Clinics, dental or medical				C		X	X			X			X	

Clothing and/or dry goods store (retail)					C	X	X			X			X	
Club or lodge (with liquor license)							X						X	
Club or lodge (without liquor license)				C		C	X				C		X	
Cold storage plant							X	X						X
Community sales center/ welcome/ discovery center incidental and necessary for the sale of new construction (temporary and permanent)	X	X	X	X	X	X	X	X			X	X	X	X
Computer design and development facilities						X	X	X		X			X	X
Concrete and asphalt products manufacture; sales (excluding batch plants)								X						X
Construction contractors; building trades (storage, equipment sales and service)							X	X					C	X

Correction, detention, or penal institution									X					C
Dairy products and sales (wholesale)	X						X	X		X				C
Data processing facilities, equipment and service							X	X					X	C
Delicatessen; catering shop							X	C		X			X	C
Delivery service (parcel and package)							X	X		X			X	X
Department or variety store							X			X			X	
Drug store; pharmacy; cosmetics				C		X	X			X			X	
Dwelling, single-family (conventional construction)	X	X	X	X	X	X	X			X	X	X	C	
Dwelling, single-family (mobilehome)	X		X											
Dwelling, single-family (modular unit)	X	C	X	X	C	X	X							

Dwelling, multiple-family (apartments, patio homes, town houses or condominiums)				X	X	X	X			X	X	C	X	
Dwelling, boarding or rooming house				X		X	X			X	X	C	X	
Dwelling, temporary watchman or caretaker (mobilehomes may be allowed)	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*
Explosives storage, manufacture, or sales									X					C
Fairgrounds, baseball park complex, stadium									X		C	C	X	
Farmers market	X					X	X		X				X	
Farms supplies, equipment sales and service							X	X						X
Farming; ranching (Prior to development of individual parcels both farming and ranching will be permitted)	X	C	C*	C	C	C	C	C		C	C	C	C	C
Feed lot operation; livestock auction									X					

Fertilizers (wholesale or manufacturing)								X						X
Fiberglass fabricators, product manufacturing								X						X
Fire stations and ambulance services	X	X	X	X	X	X	X	X		X	X	X	X	X
Fix-it shop (fenced outside storage)							X	X						C
Fix-it shop (completely enclosed)						C	X	X		C			C	C
Flea markets							C	C						
Floral shop, plant store	X					X	X			X			X	C
Food products (manufacturing and processing)								C						X
Food products (wholesale, storage, and sales)	C						X	X					C	X
Food store; grocery market; convenience store	C			C		X	X			X			X	
Fuel wholesales and storage (gasoline, liquefied petroleum)									X					C



Funeral home; mortuary						X	X						X	
Furniture sales and service; upholstery							X	X		X			X	C
Gardening and cultivation of land, supplementary to the primary residential use	C			C	C	C	C			C	C	C	C	
Gasoline service station, including car wash and convenience store	C					C	X	X					X	X
Gift shop; crafts store; curios						X	X			X			X	
Glass products, installation							X	X					X	X
Golf course; driving range									X		X	X	X	
Golf pitch-and-putt; miniature golf	C						X	X		C			X	

Greenhouse or nursery retail and wholesale (with limited storage of animal by-products, fertilizer, fungicides, herbicides and insecticides as necessary for retail/wholesale purposes and for arboriculture uses on premises)	X						X	X						X
Guns and gunsmiths							X	X					X	X
Hardware store						C	X	X		C			X	
Health club, athletic gym, spa						X	X	X		X			X	C
Home furnishings (sales and service)							X	X		X			X	
Home occupation	C	C	C	C	C	C				C	C	C	C	
Hospital equipment and supplies							X	X					C	X
Hospital; sanatorium; private nursing home	C			C	C	C	X				C	C	X	
Hotel; motel; motor lodge							X			X			X	
Ice cream store						X	X			X			X	

Ice house							X	X						X
Indoor Shooting Range							X	X					X	X
Interior decorators						X	X	X		X			X	X
Janitorial service; supplies							X	X					X	X
Jewelry manufacture and wholesalers							X	X		X			C	X
Jewelry store (retail)						X	X			X			X	
Judo, karate instruction						C	X			X			X	
Junk yard; salvage operation									X					C
Laboratory (dental, medical)							X	X					C	X
Laboratory (research, testing)							C	X					C	X
Laundromat; dry cleaning; linen supply				C	C	C	X	X					X	C
Library	X	X	X	X	X	X	X			X	X	X	X	
Liquor wholesalers							X	X						X
Locksmith						X	X	X		X			X	X
Lumber yard (retail and wholesale)							X	X						X

Machine shop; metal fabrication; products								X						X
Mobilehome parks									X					
Mobilehome and trailer sales; service; repair							X	X						X
Motorcycle sales; service; repair							X	X					X	X
Moving and transfer company							X	X						X
Museum						C	X			X			X	
Music store						X	X			X			X	
Nonprofit membership clubs				X		X	X	X		X			X	
Offices; professional and semi-professional				X	C	X	X	X		X	C	C	X	C
Offices; temporary (real estate sales, etc.)	X	X	X	X	X	X	X	X		X	X	X	X	C*
Office equipment and supplies						C	X	X					X	C
Optician; optical goods				C	C	X	X			X			X	
Paint store and related supplies							X	X					C	X

Paper products manufacture								X						X
Paper supplies (wholesale)							X	X					C	X
Parks, neighborhood and community	X	X	X	X	X	X	X	X		X	X	X	X	C
Parking lot or structure, car pool lots/park and ride lots						C	C	C		C	C	C	X	C
Pawn shop						C	X	X						C
Pest control; exterminator							X	X						X
Pet groomer, pet spa, pet day care						X	X			X			X	
Pet shop (completely enclosed)						C	X			C			X	
Photographic equipment and supplies						X	X	C		X			X	C
Photographic studio						X	X			X			X	
Plastic products (manufacture and wholesaling)								X						X
Printing and all allied trades							X	X					C	X

Radio or television station (without transmitter tower)	C						C	X					C	C
Radio or television station (with transmitter tower)	C						C	X						C
Railroad depot and maintenance facilities								X						C
Recreation facility (community, nonprofit)	C	C	C	C	C	C	X	X		C	C	C	X	C
Recreation hall; billiard parlor						X	X			X			X	
Recycling Center								C						C
Research and development						C	X	X		C			C	X
Rental service stores				C	C	X	X	X					X	C
Rental storage units							C	C						C
Restaurant (with liquor license)						X	X			X			X	
Restaurant, cafe, cafeteria (without liquor license) (no curbside service)	C					X	X	C		X			X	C
Restaurant (drive-in)						X	X	C		X			X	C

Sand and gravel operations									X					X
Seasonal sales from a moveable structure, vacant lot or parking lot	C*	C*	C*	C*	C*	C*	C*	C*			C*	C*	C*	C*
Schools; nursery, day care, or kindergarten	C	C	C	C	C	X	X				X	C	C	X
Schools; elementary and secondary	X	X	X	X	X	X	X				X	X	X	X
Schools; business, technical or trade						C	X	X					X	C
Schools; university or college									X				X	
Shopping center complex							X	X					X	C
Sign shop							X	X			X		X	X
Skating rink (indoor or outdoor)							X	X					X	
Specialty shop						C	X	C			X		X	C
Sports complex, regional							C	X					C	C
Sporting goods store							X	X			X		X	
Stable; riding school (commercial)	X												C	

Stadiums, arenas, and auditoriums							X	X					X	C
Stone cutting and monument sales							C	X						X
Storage (private) of boat, camper trailer, or R-V vehicle	C	C	C	C	C	C	C	C		C	C	C	C	
Surplus and salvage goods; second-hand store							X	X		C				C
Tailor shop				C		X	X			X			X	
Taxidermist						C	X						C	
Temporary signage	C*			C*	C*	C*	C*	C*			C*	C*	C*	C*
Temporary construction trailer(s) incidental and necessary for the sale and/or construction of structures by the permittee	C*			C*	C*	C*	C*	C*			C*	C*	C*	C*



Temporary outside storage yards for construction contractors, provided that no permit shall be granted for such use unless adequate provisions are made for screening from adjacent properties to assure protection of the general health, safety, and welfare of the public	C*			C*	C*	C*	C*	C*			C*	C*	C*	C*
Theater (indoor)						X	X			X			X	
Theater (drive-in)									X				C	
Transit stops and transfer station	C			C	C	C	X	X		C	X	X	X	X
Travel trailer courts							X							
Truck plaza, wash, terminal and maintenance							C	X					X	X
Utility, public and private	C			C	C	C	X	X			C	C	X	X
Utility company service center or structure	C			C	C	C	C	X			C	C	C	X

Veterinary hospital (small animal) (completely enclosed)	X					C	X	X			X		X	
Veterinary hospital (large animal)	X						C	X						
Vulcanizing shop, recapping								X						X
Watch repair						X	X	X		X			X	
Welding shop							C	X						X
Warehousing and outdoor storage yards (general)								X						X

(Ord. No. 2015-14, 11-16-2015)

## Chapter 17.52 - NONCONFORMING USES AND STRUCTURES

### Sections:

#### 17.52.010 - Nonconforming uses and structures.

- A. Within the districts established by this title, or amendments that may later be adopted, there exist: lots; structures; uses of land and structures; and characteristics of use which were lawful before the ordinance codified in this title was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this title or future amendment. It is the intent of this title to allow these nonconformities to continue until they are removed, but not to encourage their survival.
- B. On any building devoted in whole or in part to any nonconforming use, work may be done on ordinary repairs, or on repair or replacement of nonbearing walls; provided, that the cubic content of the building as it existed at the time of the passage of Ordinance No. 370 shall not be increased. Nothing in

this title shall prevent the strengthening or restoring to a safe condition any building or part thereof declared to be unsafe by any official charged with protecting public safety, on order of such official.

- C. A nonconformity shall not be enlarged, expanded, or extended, but the addition of a lawful use to any portion of a nonconforming building which existed prior to the enactment of the ordinance codified in this title shall not be deemed an extension of such nonconforming use.
- D. A single-family dwelling and any customary accessory buildings may be erected on any single lot of record preceding the effective date of adoption or amendment of the ordinance codified in this title. This provision shall apply even though such lot fails to meet the minimum requirements for area or width, or both, that are hereafter applicable within the zoning district; provided that setback and any other requirements of the lot shall conform to the regulations for the district in which such lot is located.
- E. A nonconforming building may not be reconstructed or structurally altered during its life to an extent exceeding an aggregate cost of twenty-five (25) percent of the assessed value of the building unless said building is changed to a conforming use. No building damaged by fire or other causes to the extent of more than fifty (50) percent of its assessed value shall be restored or rebuilt except in conformity with the provisions of this title.
- F. Whenever a nonconforming use has been discontinued for a period of ninety (90) days or more, such use shall not thereafter be reestablished, and any future use shall be in conformance with the provisions of this title.
- G. Nothing in this title shall require any change in plans, construction, or designated use of a building for which a building permit has been issued prior to enactment of this title.

(Ord. No. 2015-14, 11-16-2015)

## Chapter 17.54 - LANDSCAPE REGULATIONS

### Sections:

#### 17.54.010 - Intent of regulations.

The intent of these regulations is to provide visually attractive landscaping for commercial and industrial developments, to encourage the conservation of water through the use of drought-tolerant plantings and xeriscaping principles, to provide shade in pedestrian and parking areas, and to reduce the erosion of soils and contamination of surface waters caused by stormwater runoff.

(Ord. No. 2015-14, 11-16-2015)

#### 17.54.020 - Applicability.

These regulations shall apply to the following:

- A. All new commercial and industrial development as defined and permitted in this title.
- B. Expansion of existing commercial and industrial development in which the square footage of land area, floor area, lot coverage or parking area is increased by fifty (50) percent or more.

(Ord. No. 2015-14, 11-16-2015)

#### 17.54.030 - Landscaping plan.

All applicants for a building permit for construction of new commercial or industrial development, or for expansion of existing commercial or industrial development applicable to these regulations, shall submit a landscaping plan with a required administrative review fee to the city planning and zoning officer who shall determine compliance with these regulations. The landscaping plan shall include:

- A. A site map drawn to scale showing topography in the form of finished contour lines and areas proposed to be landscaped upon completion of the building construction project;
- B. Common or botanical names of the plants to be used, indicating plant size, location and spacing shown on the site map;
- C. The location, type and size of any underground or overhead utility lines on the site with reference to the landscaped areas;
- D. Type and layout of the irrigation system, if required, for landscaped areas indicating connections to the water supply source;
- E. A stormwater drainage plan for the site shall be attached or referenced in accordance with the city drainage regulations for commercial and industrial development.

(Ord. No. 2015-14, 11-16-2015)

#### 17.54.040 - Landscape requirements.

All landscaping created pursuant to these regulations shall be planned, designed, and installed in compliance with the following requirements:

- A. A minimum of five (5) percent of the total site area shall be landscaped in a manner that will meet the intent of these regulations. Landscaping shall consist of trees, shrubs, ground-cover, or other low-growing plants, and may include natural or manufactured materials such as rocks, walls, pavements for walkways or patios, works of art, and outdoor furniture.
- B. Drought-tolerant plantings are encouraged in all landscape designs. Upon request, the city planning and zoning officer will provide a list of drought-tolerant plants for the area to be landscaped.
- C. To the extent possible, healthy existing trees and shrubs should be preserved, especially if drought-tolerant, and incorporated into the landscaped area.

- D. Trees shall be planted as a landscape border along all abutting roadways and may be planted as an interior landscape border within vehicle parking areas. Spacing of trees in a landscape border shall be no greater than forty (40) feet apart.
- E. Vegetation may be used to satisfy a screen requirement in accordance with this title to visually separate the land use on the commercial or industrial development site from an abutting residential land use.
- F. Landscaping shall not create a physical or visual obstruction to vehicular traffic whether on or off public rights-of-way.
- G. Placement of new trees shall avoid locations where future tree growth might interfere with utility lines or cause structural upheaval of pavements or buildings.
- H. All landscape areas should make use of stormwater catchment and retention on site for purposes of flood control, water pollution abatement, prevention of soil erosion, and increased soil moisture for vegetation. On-site stormwater retention structures shall be designed to ensure public health and safety, during and following storm events.

(Ord. No. 2015-14, 11-16-2015)

#### 17.54.050 - Maintenance standards.

All landscaping installed in compliance with these regulations shall be maintained as long as the commercial or industrial land use remains an active facility. The following maintenance standards are required:

- A. Any plant material in areas of required new landscaping that does not survive will be replaced with an equivalent size and species of plant within three (3) months.
- B. Plants shall be pruned as necessary to control size or shape, but not to endanger its health, in order to prevent visual and physical obstructions to pedestrians or vehicles.
- C. Regular landscape maintenance should ensure water efficiency and include, but not be limited to, pruning, mulching, weeding, litter and dead plant removal, fertilizing, insect and disease control, and improvements or repair of nonvegetative materials.
- D. Substantial modifications to landscaping will require review and approval of a revised landscape plan by the city engineer. Minor modifications of the landscaping occurring as a result of routine maintenance or replacement of vegetation because of damage or disease are not subject to approval by the city engineer.
- E. Irrigation systems will be maintained and replaced as necessary to minimize loss of water due to leaks or inefficient use of water.

(Ord. No. 2015-14, 11-16-2015)

#### 17.54.060 - Administrative review and fee.

These landscape regulations shall be enforced by the city planning and zoning officer who is authorized to review and approve landscape plans. Applicants for building permits to be granted by the city for commercial or industrial development shall confer with the city planning and zoning officer regarding the landscape requirements contained herein. An administrative fee of fifteen dollars (\$15.00) shall be paid to the city to cover the landscape plan review costs. For complex and extensive landscape plans, the city planning and zoning officer may request an independent review of such plan by the city engineer or other qualified individual. Specific costs associated with an independent review of a landscape plan shall be paid to the city by the building permit applicant. All reviews of landscape plans shall be completed within thirty (30) days of receipt and documented with reasons given for approval or disapproval. Requests for variances or waivers to the requirements of these regulations shall be submitted to the city planning and zoning officer in writing. A variance or waiver may be granted or denied at the discretion of the city planning and zoning officer with reasons given in writing and returned within thirty (30) days of receipt of the request for variance or waiver. Any decision made by the city planning and zoning officer in carrying out the provisions of these regulations may be appealed to the Belen city council.

(Ord. No. 2015-14, 11-16-2015)

## Chapter 17.56 - OFF-STREET PARKING AND LOADING

### Sections:

#### 17.56.010 - Off-street parking requirements.

- A. In all zone districts, there shall be provided, at the time any new building or structure is erected, off-street parking spaces as set forth in the following subsections. All existing buildings or structures need supply such parking only to the extent ground space is available. Off-street parking must be provided on site or within three hundred (300) feet of the site.
- B. The minimum number of parking spaces to be provided shall be as shown on the following list:
  - 1. Single-family dwellings: two (2) spaces per dwelling unit;
  - 2. Multifamily dwellings: two (2) spaces per dwelling unit;
  - 3. Mobilehome parks and travel trailer courts: two (2) parking spaces per mobilehome space or travel trailer space;
  - 4. Home occupation: no additional spaces;
  - 5. Hotels and motels: one (1) space per unit and one (1) space per two (2) employees;
  - 6. Hospitals, clinics, and convalescent or nursing homes: one (1) space per two (2) beds and one (1) space per staff doctor;
  - 7. Medical and dental offices: five (5) spaces per doctor;
  - 8.

Places of public assembly, including churches, community centers, auditoriums, theaters, gymnasiums, arenas, and mortuaries: one (1) space per four (4) seats;

9. Club, lodge, or fraternal organization: one (1) space per two hundred (200) square feet of floor area;
  10. Banks, offices, service establishments, retail businesses, and public buildings: one (1) space per three hundred (300) square feet of floor area;
  11. Restaurants (except drive-ins), bars: one (1) space per four (4) seats;
  12. Industrial, manufacturing, and wholesale establishments: one (1) space per two (2) employees on largest shift;
  13. Shopping center developments: five (5) spaces per one thousand (1,000) square feet of floor area;
  14. Bowling alleys: four (4) spaces per alley;
  15. Laundromats: one (1) space per three (3) machines.
- C. For mixed uses within the same building or structure, the total requirement for off-street parking spaces shall be the sum of the requirements of each use computed separately.
- D. The following minimum design standards shall be observed in laying out off-street parking facilities:
1. All facilities must provide appropriate access to a street, alley, or public thoroughfare.
  2. All driveways shall be of sufficient width to permit access into parking spaces, but in no case less than twenty (20) feet wide.
  3. Each parking space shall consist of an area not less than nine (9) feet wide by twenty (20) feet long exclusive of driveway area.
- E. An applicant for a building permit must submit plans showing the off-street parking required by this section. These plans must show location, arrangement, and dimensions of the off-street parking, turning spaces, drives, aisles, and ingress and egress in a manner satisfactory to the zoning enforcement officer.

(Ord. No. 2015-14, 11-16-2015)

#### 17.56.020 - Off-street loading requirements.

- A. Under the conditions of this section, loading space shall be provided for bulk pickups and deliveries and accessible to delivery vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included in the computation of required off-street parking space.
- B. Individual loading spaces required under this section shall be at least fifty (50) feet long and twelve (12) feet wide, and shall be located on private property.
- C. Every building or structure used for commercial or industrial purposes shall be provided with off-street loading space.
- D. Buildings or structures used for office or research purposes and having a total floor area of at least twenty thousand (20,000) square feet shall be provided with off-street loading space.

(Ord. No. 2015-14, 11-16-2015)

Chapter 17.58 - SIGN REGULATIONS<sup>[2]</sup>

## Sections:

*Footnotes:**--- (2) ---**Editor's note— Ord. No. 2016-07, adopted Nov. 7, 2016, repealed Ch. 17.58 in its entirety and enacted a new Ch. 17.58 to read as set out herein.**Former Ch. 17.58, §§ 17.58.010—17.58.080, pertained to similar subject matter and derived from Ord. No. 2015-14, adopted Nov. 16, 2015.*

## 17.58.010 - Intent.

It is the intention of the city of Belen to allow such signs that will not endanger the public safety, will not obstruct or detract from visibility necessary for traffic safety, and will not conflict with the development policies and land use objectives set by the city of Belen. No sign shall be installed or maintained within the city of Belen unless such sign conforms to the regulations herein. Every sign shall be maintained in good structural condition at all times.

(Ord. No. 2016-07, 11-7-2016)

## 17.58.020 - Definitions.

For purposes of this section, the following words, terms, and phrases shall apply:

"Advertising support structure" means any structural part of an advertising device.

"Billboard" means an advertising sign that is not physically located on the premises to which the sign refers. Billboards are also called off-premises signs. Advertising support structure without a sign face is regulated as a billboard.

"Building-mounted sign" means any sign attached to any part of a building, as contrasted to a freestanding sign.

"Freestanding sign" means a sign attached to an independent supporting structure which is not an integral part of a building.

"Interstate sign" means an on-premises sign within one thousand two hundred (1,200) linear feet in any direction of an interstate.

"Nonconforming sign" means any sign which does not conform to the regulations of this section upon the effective date of adoption or amendment thereto.

"On-premises sign" means a sign which advertises the primary goods or services sold or taking place upon the premises on which the sign is located.



"Portable sign" means a temporary sign which has removable lettering, usually mounted on wheels, and is not permanently attached to a building.

"Portable sign dealer" means a sign dealer in the business of renting portable signs to businesses or individuals and placed within the city.

"Residential sign" means any sign located in a district zoned for residential uses that contains no commercial message except advertising for goods or services legally offered on the premises where the sign is located, if offering such service at such location conforms with all requirements of the Belen zoning ordinance.

"Sign" means a device which is constructed to convey information visually to the public. A sign shall be construed to be a display surface or device containing organized and related elements composed to form a single unit. The size of signs shall be regulated according to the sign face.

"Sign face" means that area of the sign which is enclosed by a continuous line, connecting the extreme points or edges of the sign, but not including structural supports of the sign. For any two-sided sign on which both sign faces cannot be viewed at once, only one (1) sign face shall be counted in calculating the sign size.

"Temporary sign" means any sign that is used only temporarily and is not permanently mounted.

"Wall sign" means any sign painted on or applied directly onto the outside wall of a building and which displays only one (1) advertising surface.

"Wayfinding sign" means a sign that directs or guides pedestrian and vehicular traffic from point to point or confirms traffic is on a correct path to or have arrived at a location. An example would be a "finger point" sign that points an arrow in a certain direction and identifies what (specific businesses, points of interest) is located in that direction and is dual sided.

"Window sign" means any sign placed inside or upon a window facing the outside and which is intended to be seen from the exterior of a building; provided, however, that the total square feet of window sign shall not exceed twenty-five (25) percent of any of the window areas.

(Ord. No. 2016-07, 11-7-2016)

#### 17.58.030 - Business signs.

The following regulations shall apply to all signs relating to business, commercial, industrial, institutional and service provider activities:

A. On-premises business signs shall be regulated as follows:

1.

One (1) or more signs may be placed on the premises of a business, commercial, industrial, institutional, or service provider activity; however, the cumulative total of sign face computed for all signs on each of the premises shall not exceed five hundred (500) square feet;

2. For each freestanding sign, the sign face shall not exceed one hundred fifty (150) square feet per sign;
3. Wall signs, window signs and building mounted signs shall be included in the computation of sign face; however, the cumulative total may be increased if granted a variance in accordance with the Belen zoning ordinance;
4. Freestanding signs shall not exceed a height of thirty (30) feet and building-mounted signs shall not exceed the height of the building unless granted a variance in accordance with the Belen zoning ordinance.

B. On-premises interstate signs shall be regulated as follows:

1. One (1) or more signs may be placed on the premises of a business, commercial, industrial, institutional, or service provider activity; however, the cumulative total of sign face computed for all signs on each of the premises shall not exceed two thousand (2,000) square feet;
2. Wall signs, window signs and building mounted signs shall be included in the computation of sign face; however, the cumulative total may be increased if granted a variance in accordance with the Belen zoning ordinance;
3. Freestanding signs shall not exceed a height of forty (40) feet above the highest ground level at the interstate in either traffic direction.
4. Exceptions may be granted to the forgoing that would require an approval of a variance by the planning and zoning commission.

C. New billboard signs shall be prohibited and existing billboard signs shall be regulated as nonconforming signs:

1. The nonconforming billboard signs shall be allowed to remain but may not be enlarged, expanded, modified, extended or relocated;
2. A nonconforming billboard when destroyed by natural causes, may be reconstructed within the following thirty (30) days subject to current city standards;
3. Whenever a nonconforming billboard has been discontinued as an outdoor advertising device for a period of sixty (60) consecutive days, the city shall cause the billboard to be removed at the expense of the property owner. Any advertising structure support shall also be removed at the expense of the property owner; and
4. Structural maintenance of nonconforming billboards shall be continued until the sign is removed by the property owner.

D. For the purpose of regulating outdoor night lighting fixtures to preserve and enhance the community's natural resource of dark skies while promoting safety, conserving energy and preserving the environment for astronomy, all direct external lighting fixtures shall be effectively

shielded to prevent direct or reflected light into the sky and onto highways or residential areas. All outdoor electrically powered illuminating devices shall be installed in conformance with the provisions of the New Mexico Electrical Code and under appropriate permit and inspection. The following signs are exempt from these lighting regulations:

1. Signs lighted by means of internal indirect light;
2. Signs with outdoor lighting fixtures used on land or facilities under the control of the federal government; and
3. Signs with lighting fixtures legally installed prior to the effective date of the regulations codified in this subsection; however, when lighting fixtures on existing signs become inoperable or are replaced or structurally altered, such lighting fixtures must conform to this subsection.

(Ord. No. 2016-07, 11-7-2016)

#### 17.58.040 - Temporary signs.

Requirements for certain types of temporary signs which are placed for a limited period of time shall be as follows:

- A. Signs relating to the sale, lease, or development of real estate shall comply with the following regulations:
  1. One (1) on-premises sign per lot is permitted, provided that no such sign face shall exceed five (5) square feet;
  2. Off-premises signs directing prospective buyers to real estate for sale or lease shall be limited to no more than three (3) signs for each referenced property, provided that no such sign face shall exceed ten (10) square feet;
  3. Signs promoting or advertising subdivisions for sale shall not have a sign face greater than thirty-two (32) square feet; and
  4. All real estate signs shall be removed within five (5) days after the property is sold.
- B. Portable signs may be located on any lot which is not used for residential purposes. The sign face for any portable sign shall not exceed thirty-two (32) square feet;
- C. No temporary sign shall be higher than its distance to the nearest point on the property line, but in no case higher than the height of the highest building on the premises; and
- D. Temporary signs shall be nonilluminated.

(Ord. No. 2016-07, 11-7-2016)

#### 17.58.050 - Residential signs.

Requirements for certain types of residential signs shall be as follows:

- A. One (1) nonilluminated sign is allowed for each home occupation business permitted by the city; provided that no such sign shall exceed five (5) square feet of sign face; and
- B. One (1) nonilluminated sign per lot is allowed in the agricultural/residential (A-R) zone district for the sale of homegrown agricultural products, provided that no such sign shall exceed ten (10) square feet of sign face.

(Ord. No. 2016-07, 11-7-2016)

#### 17.58.060 - Prohibited signs.

The following signs are prohibited within the municipal limits of the city of Belen:

- A. Signs located in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal or device, or obstruct or interfere with the driver's view of approaching, merging or intersecting traffic;
- B. Signs which extend over any public highway such that free movement of traffic on the public highway is impaired;
- C. Signs which extend over or onto any public sidewalk such that free movement on the public sidewalk is impaired;
- D. Signs which are over three (3) feet in height and less than eight (8) feet in height within a clear sight triangle area. A clear sight triangle is an area of unobstructed vision at the intersection of public highways, defined by lines of sight between points twenty-five (25) feet from the intersection of street right-of-way lines;
- E. Billboard signs;
- F. Signs applied to trees, rocks or other natural objects; and
- G. Signs which are or may become a public safety hazard.

(Ord. No. 2016-07, 11-7-2016)

#### 17.58.070 - Sign permits and fees.

Within the city of Belen, it is unlawful for any person to erect or relocate any sign as defined and not exempted herein without first obtaining a sign permit from the city and paying any fees or charges required by this section. When a sign permit has been issued by the city, it is unlawful to modify, alter or otherwise deviate from the terms and conditions of such permit without prior approval from the city. The city shall inspect and have the authority to order the painting, repair, alteration or removal of any sign which shall constitute a hazard to safety, health or public welfare by reason of inadequate maintenance or dilapidation.

A.

Application for a sign permit shall be made in writing upon a standard form provided by the city. The city, within five (5) working days of the date the application is received, shall either approve or deny the application or refer the application back to the applicant in any instance where insufficient information has been furnished. The application shall contain or have attached thereto the following information:

1. Name, address and telephone number of the applicant, and name of person, firm, corporation or association erecting the sign;
  2. Two (2) permanent copies of the plans and specifications drawn to scale and including:
    - a. The dimensions of the sign face and its supporting members and, where applicable, the dimensions and a photograph of the wall surface of the building to which it is to be attached;
    - b. A description of the materials used for construction of the sign;
    - c. The maximum height and minimum clearance of the sign;
    - d. The position of the sign in relation to the front of the building and to adjacent buildings, structures or other signs; and
    - e. The location of the sign in relation to the boundaries of the lot upon which it is situated.
  3. Written consent from the owner of the building, structure or land to which or on which the sign structure is to be erected;
  4. Any electrical permit required and issued for the sign. Application requesting electrical permit for the proposed sign must accompany sign application; and
  5. If appropriate, a copy of the lease for property on which the sign is to be constructed.
- B. For purposes of financing the administration and inspection of signs within the city of Belen, an initial permit fee shall be assessed for individual premises installing one (1) or more signs. The initial sign permit fee shall be waived for signs existing prior to the effective date of the regulations codified in this chapter; however, permit applications must be completed and submitted to the city following a written notice from the city. A sign permit shall become void if the business activity on the premises is discontinued for a period of one hundred eighty (180) days or more and is not renewed within thirty (30) days of a notice from the city to the last permittee, sent to the premises, that the sign permit will be voided if such activity is not renewed. Subsequent to the initial sign permit, an annual sign regulation charge is collected by the city. Sign permit fees are determined as follows:
1. The initial permit fee shall be collected for all proposed signs following the effective date of the ordinance codified in this section and shall be based on the size of the sign:
    - a. A base fee of twenty dollars (\$20.00) will be assessed for each sign up to and including a sign face of seventy-two (72) square feet, and
    - b. All signs with a face greater than seventy-two (72) square feet will be assessed an additional one dollar (\$1.00) per square foot of sign face over seventy-two (72) square feet.

2. A one-time sign regulation charge of fifteen dollars (\$15.00) will be required for the registration of all existing signage within the city.
- C. A temporary sign permit shall allow the use of one (1) portable sign for a specified thirty-day period on individual premises. No more than three (3) portable sign permits may be issued to the applicant for each calendar year. The fee for a portable sign permit is ten dollars (\$10.00) for each thirty-day period. Portable sign dealers who do business within the Belen city limits shall pay an annual fee of one hundred dollars (\$100.00).
- D. A sign permit tag, issued in conjunction with a permit, will be affixed to the sign structure within thirty (30) days of the issuance of the permit. Failure to affix the sign permit tag to the sign structure, which is the subject of the permit, shall render the permit void. The permit tag will be affixed to the sign face in the lower corner nearest the street right-of-way.

(Ord. No. 2016-07, 11-7-2016)

#### 17.58.080 - Exemptions.

Exemptions shall not be construed as relieving the owner of such signs from the responsibility of complying with applicable provisions of this section or other laws or regulations. The exemptions shall apply to the requirement for a sign permit and/or removal of any advertising support structure, and no sign permit or removal of any advertising support structure will be required for the following signs:

- A. Temporary signs, provided they are in compliance with the regulations herein;
- B. Residential signs, provided they are in compliance with the regulations herein;
- C. Signs not exceeding one (1) square foot of sign face and bearing only property numbers, mailbox numbers or names of occupants of premises;
- D. Flags and insignia of any government, except when displayed in connection with commercial promotion;
- E. Legal notices, identification information or directional signs erected by governmental bodies;
- F. Integral decorative or architectural features of buildings, except letters and trademarks; and
- G. Signs directing and guiding traffic and parking on private property but bearing no advertising matter.
- H. Advertising support structure on property purchased within the prior twelve (12) months so long as the support structure is safely maintained.

(Ord. No. 2016-07, 11-7-2016)

#### 17.58.090 - Campaign signs.

A. Definitions. [The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:]

"Campaign sign" means any sign, as defined in section 17.58.20, that contains the name of, image of, or any message regarding a candidate in any election or that contains a message or identification of an issue in any election.

"Campaign sign, small" means any campaign sign not exceeding four (4) square feet.

"Campaign sign, large" means any campaign sign larger than four (4) square feet, and shall include banners of all sizes.

"Election" means any primary, general or special election governed by the state election code, NMSA 1978, Chapter 1, any regular or special municipal election, and any regular or special election of a school district or other special district.

"Election day" means the actual day of election as specified by law for any type of election.

"Issue" means any ballot question other than a candidate, including, but not limited to, constitutional amendments, bond questions, tax questions, initiatives or referenda.

"Responsible party" means the representative of any candidate or of any issue who shall be responsible for obtaining a sign permit and for compliance with the provisions of this code. A political action committee ("PAC"), whether officially registered or not, may be a responsible party.

B. Responsible Party.

1. Partisan Candidates. For any candidate of a major or minor political party, the chairperson of the county political party or the chairperson's designee shall be presumed to be the responsible party, provided, that the candidate may agree to be the responsible party. In the absence of a county chairperson or designee, the candidate shall be the responsible party. The chair or the chair's designee may obtain a single permit for all candidates or for designated candidates in a given election.
2. Non-Partisan Candidates. For any candidate that is listed on a ballot without party affiliation, the candidate or the candidate's designee shall be presumed to be the responsible party.
3. Issues. For any issue, the responsible party shall be presumed to be, in order:
  - a. The person designated by the organization sponsoring the sign;
  - b. The person designated as treasurer on any form filed with the secretary of state;
  - c. The person, if any, whose name appears on the sign as treasurer or representative; or
  - d. The owner of the property on which the sign is located.

C. Permit Required.

1. All campaign signs displayed within the city limits shall conform to the definition of either a small campaign sign or a large campaign sign.
2. Except as exempted herein, the responsible party shall obtain a permit, on a form provided by the city clerk, prior to placement of any campaign signs on any property. The clerk shall provide the responsible party with a copy of the rules regulating campaign signs at the time of issuing the permit, or at the time of registration for any municipal election, whichever is earlier.
3. The responsible party shall post a deposit with the city clerk in the following amounts in order to guarantee removal of all campaign signs covered by the permit following the election:
  - a. Non-partisan elections—individual candidates: \$100.00
  - b. Partisan elections—individual candidates: 100.00
  - c. Partisan elections—political party permit: 500.00
  - d. Issues—organization: 500.00
  - e. Issues—property owner: 100.00
  - f. All elections—registered or unregistered PAC: 500.00
4. The responsible party and/or a private property owner, as applicable, shall be responsible for code compliance of all campaign signs located on property covered by this code.
5. The code enforcement officer shall notify the responsible party and/or the property owner, as applicable, of violations of the provisions of this code. Upon failure of the responsible party or the property owner to resolve the violation within the time specified in the notice, the code enforcement officer may issue a citation to the responsible party, the property owner, or both.
6. Within ten (10) days following election day, all campaign signs shall be removed from the areas covered by the permit. Upon certification by the code enforcement officer of compliance, the clerk shall refund the deposit to the responsible party. The responsible party shall forfeit the deposit if all campaign signs have not been removed within said period. Any campaign signs remaining following said ten-day period shall be deemed abandoned, subject to removal and disposal by the city.

D. Display of Campaign Signs.

1. Period of Display. The permit shall authorize the display of campaign signs not sooner than thirty (30) days prior to election day, and shall expire at the end of the tenth day following election day.
2. Location. Campaign signs may be displayed during the authorized period only on private property.
  - a. Campaign signs shall be located in a manner as not to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal or device, and as not to obstruct or interfere with a driver's view of approaching, merging or intersecting traffic. Any sign placed in violation of these provisions shall be subject to immediate removal, without notice, by the city.
  - b. No campaign sign shall extend over any right-of-way or any sidewalk.
  - c.



All campaign signs shall be either free-standing or affixed to a permanent structure, such as a building or wall, but shall not be affixed to any publicly-owned structure, such as a fence, wall or pole.

3. Small campaign signs located on improved, residentially zoned property shall be subject to the provisions of this code, but shall not require a permit.

E. Enforcement.

1. Code Enforcement Officer. The code enforcement officer shall be authorized to enforce this section by issuing notices and citations to the responsible party and/or the property owner, and shall be authorized to remove campaign signs displayed in violation of the provisions of this section.
2. Right-of-Way and Public Property. Upon determining a violation of the provisions of this section for any campaign sign located within the public right-of-way or on public property, the code enforcement officer shall notify the responsible party of the violation and specify the time within which the violation must be corrected. Upon failure of the responsible party to correct the violation as directed, the code enforcement officer may remove the campaign sign or signs in violation of this section, provided, that the code enforcement officer may remove without notice any campaign sign that the officer determines to be a threat to public safety.
3. Private Property. Upon determining a violation of the provisions of this section for any campaign sign located on private property, the code enforcement officer shall notify the property owner of the violation and shall specify the time within which the violation must be corrected. Upon failure of the property owner to correct the violation as directed, the code enforcement officer may issue a citation to the property owner. In the event that the property owner cannot be identified, the code enforcement officer may issue the warning and/or citation to the responsible party.
4. Survival of Citation. Any citation issued for violation of these provisions shall survive the conclusion of the election, and shall be punishable in municipal court according to the general penalty provisions of this code, with minimum fines as specified herein.
5. Minimum Fine. Upon a finding of violation, the municipal court shall impose a mandatory minimum fine of fifty dollars (\$50.00) per sign, per day. Each day of violation shall constitute a separate offense.

F. Other Campaign Signs.

1. Private Property. Any campaign sign or other political sign located on private property that has not been included in the permit provisions of this section shall comply with all other provisions of this chapter. For commercially zoned property, the sign shall be considered a commercial sign subject to the requirements and limitations of section 17.58.030 regarding business signs. Any such sign shall be considered a nonconforming billboard sign, subject to removal as provided for in section 17.58.030B.3.
2. Public Right-of-Way and Public Property. Any campaign sign located within the public right-of-way or on public property shall be unlawful and shall be subject to removal as provided for herein.

(Ord. No. 2016-07, 11-7-2016)

## Chapter 17.59 - WIRELESS TELECOMMUNICATIONS FACILITIES

### Sections:

#### 17.59.010 - Title and purpose.

- A. The ordinance codified in this chapter is known as the "wireless telecommunications facilities ordinance" and is referred to herein as "these regulations."
- B. The purpose of these regulations are as follows:
  - 1. To regulate the construction, installation, or modification of wireless telecommunication facilities (WTF);
  - 2. To allow wireless telecommunications service providers to operate effectively and efficiently within the community while minimizing the total number and overall impact of additional towers;
  - 3. To promote collocation or the construction of attached wireless telecommunications facilities, and encourage the use of appropriate public and semi-public properties where possible;
  - 4. To require design and construction of wireless telecommunications facilities to be compatible with adjacent land uses;
  - 5. To protect the scenic, historic, and environmental quality of the city from the adverse impacts of wireless telecommunications facilities development; and
  - 6. To protect the public health, safety, and general welfare of the community.
- C. All references to zoning in these regulations shall pertain to the comprehensive zoning ordinance of the city. These regulations are considered as a supplement to the zoning ordinance.

(Ord. No. 2015-14, 11-16-2015)

#### 17.59.020 - Definitions.

The term wireless telecommunications facilities is referred to hereafter as "WTF." The following definitions apply to these regulations:

Antenna, WTF. "WTF Antenna" means any exterior transmitting or receiving device which may be mounted on a tower, building, or structure and used in communications that radiates or captures electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), or other commercial signals. Such antenna includes, but is not limited to, an omni-directional antenna (whip), directional antenna (panel), or parabolic antenna (dish).

"Attached WTF" means an antenna that is attached or affixed to an existing building or structure, including public utility structures and freestanding signs.

"Collocation" means the location of more than one (1) WTF on the same structure by more than one (1) WTF owner, or the location of one (1) or more WTF on a public utility structure.

"Concealed WTF" means a WTF that is architecturally integrated with existing buildings or structures by means of color, massing, placement, design, or shape, and which does not stand out as a WTF.

"Freestanding WTF" means a WTF that consists of a stand-alone support structure, antennas, and associated equipment. The support structure may be a wooden pole, steel monopole, lattice tower, guy-wire support tower, or other similar structure. This does not include a WTF antenna that is mounted on a public utility structure.

Height, WTF. "WTF Height" means the vertical dimension of a WTF or support structure, as measured from the ground elevation at the base of the WTF or support structure to the top of the structure, including the antenna.

"Public utility structure" means a structure, owned by a unit of government or by a public utility company, which includes but is not limited to an electric substation, gas transfer station, wastewater collection structures, public water supply structures, street light poles, or any other similar public utility structure. A WTF antenna may be attached to a public utility structure subject to any height requirements established herein.

"Wireless telecommunications facilities (WTF)" means a facility that transmits or receives signals radiated or captured by a WTF antenna. A WTF includes antennas, equipment for the transmission or reception of signals, support structures, equipment buildings or cabinets, parking areas, and other accessory development.

"Wireless telecommunications services" means the provision or offering for rent, sale, or lease, or in exchange for other value received, of the transmittal of voice, data, image, graphic, and video programming information between or among points of location, but excluding cable services. Such services are further defined in the Federal Telecommunications Act.

(Ord. No. 2015-14, 11-16-2015)

#### 17.59.030 - General requirements.

The following regulations apply to all WTF within the municipal limits of the city:

##### A. Setbacks and Height.

1. A freestanding WTF will be set back a minimum of seventy-five (75) feet from the property line, or at a one-to-one ratio (one (1) foot of setback for every foot of tower height from the property boundary of the WTF), whichever is greater, from any residentially zoned property.

2.

For any setbacks not covered above, setbacks must conform to the setback requirements of the zone district in which the WTF is located.

3. A freestanding WTF shall not exceed a height of seventy-five (75) feet within lands zoned for residential purposes, however a freestanding WTF may be constructed up to one hundred (100) feet on lands zoned for industrial purposes.
4. An attached WTF shall not extend more than twenty (20) feet above the height of the structure upon which the WTF is mounted.

**B. Lighting and Signage.**

1. Only security lighting or lighting required by a state and/or federal agency is allowed, if the location and direction of the lighting fixture will be such that it does not shine directly on any public right-of-way or any residential premises.
2. The only signage that is permitted is that which is required by state or federal law.

**C. Telecommunications Equipment Building or Cabinet.**

1. Any telecommunications equipment building or cabinet shall not contain more than four hundred (400) square feet of gross floor area per user and shall not be more than twelve (12) feet in height.
2. Setback of equipment buildings or cabinets shall conform to the setback requirements of the zone district in which the WTF is located.

**D. Abandonment.**

1. All WTF which are not in use for six (6) consecutive months will be removed by the WTF owner. Costs associated with removal of an abandoned WTF and site restoration will be paid by the service provider, owner of the WTF and/or property owner.
2. Removal of a WTF shall take place within three (3) months of the end of such six-month period. Upon removal, the surface of the site shall be restored to a condition suitable for redevelopment.

**E. Collocation.**

1. No new freestanding WTF shall be permitted unless the city engineer determines, upon the applicant's demonstration, that no existing tower, structure or public utility structure can be used in lieu of new construction to accommodate the applicant's proposed WTF.
2. Evidence submitted to the city which demonstrates that no existing tower structure, or public utility structure within a one-quarter-mile radius of the proposed facility can reasonably accommodate the applicant's proposed WTF shall consist of the following:
  - a. That no existing tower, structure, or public utility structure is located within the one-quarter-mile radius which meets the applicant's engineering requirements;
  - b. That no existing tower, structure, or public utility structure is located within the one-quarter-mile radius which has sufficient structural strength or space available to support the applicant's proposed WTF and related equipment;

c.

That the applicant's proposed WTF would not cause unavoidable electromagnetic interference with the antenna(s) on the existing towers, structures or public utility structures, or the antenna(s) on the existing towers, structures or public utility structures would not cause interference with the applicant's proposed WTF; or

- d. That the owners of existing towers, structures, or public utility structures within the one-quarter-mile radius will not allow the applicant to place its WTF thereon, or such owners are requiring payments for the use of their tower that substantially exceed commercially reasonable rates.

F. Interference and Health Issues.

1. Every WTF shall meet the regulations of the Federal Communications Commission regarding physical and electromagnetic interference.
2. Every WTF shall meet health and safety standards for electromagnetic field emissions as established by the Federal Communications Commission and any other federal or state agency.

G. Main Street Overlay Zone (Main Street District).

1. Only a concealed WTF is allowed within the Main Street Overlay Zone (Main Street District), as delineated on the city zoning map.
2. All freestanding WTF are prohibited within one-eighth ( 1/8 ) mile of the boundary of the Main Street Overlay Zone (Main Street District).

H. Concealed WTF.

1. Concealed WTF must be:
  - a. Architecturally integrated with an existing building or structure by means of color, massing, placement, design, or shape;
  - b. Located on existing vertical infrastructure, such as utility poles or public utility structures, if possible; and
  - c. Located in areas where the existing topography, vegetation, buildings, or other structures provide the greatest amount of screening.
2. A proposed concealed WTF will be subject to review and approval by the city of Belen planning and zoning commission in order to determine whether the WTF is "concealed".

I. Applicability and Exclusions.

1. Every WTF located within the city, whether upon private or public lands will be subject to these regulations and shall require a permit issued by the city.
2. The following facilities are exempted from these regulations:
  - a. Amateur radio station operator/receive-only antenna if owned and operated by a federally licensed amateur radio station operator or used exclusively for a receive-only antenna;
  - b. Any tower or antenna existing prior to the effective date of these regulations provided that no alterations are made to the WTF unless they are in compliance with these regulations; and

- c. Any WTF used exclusively for emergency services including police, fire, and operations of the city water utility.

J. Noise.

1. Noise-producing equipment will be sited and/or insulated to guarantee that no increase in noise above ambient levels measured at the property line occurs.
2. Backup generators shall only be operated during power outages and for testing and maintenance purposes conducted during regular business hours.

K. Landscaping.

1. Any freestanding WTF must incorporate sufficient landscaping as a screening device at the base of the tower and around associated structures, subject to the review and approval of the planning and zoning commission of the city of Belen. Existing vegetation and natural landforms on the site will be preserved to the maximum extent possible.
2. All vegetation, landscaping, and grounds removed, damaged or disturbed as a result of the construction, installation, maintenance, repair or replacement of any WTF, will be replaced or restored by the WTF owner as nearly as practicable to the condition existing prior to performance of work.

(Ord. No. 2015-14, 11-16-2015)

17.59.040 - Permit application requirements.

- A. No WTF may be constructed, installed, modified, or operated within the municipal limits of the city without first obtaining a permit from the city. An application for a WTF permit shall be submitted to the city zoning officer and shall include the following:
  1. A general location map showing the proposed site for the WTF and surrounding lands within a one-quarter-mile radius of the proposed site. This map should show major roads and other features necessary to locate the site.
  2. A vicinity map showing property lines of the land on which the WTF is located, and surrounding properties adjacent to the WTF property. On-site and off-site zoning and land uses will be indicated on the vicinity map, including the city of Belen and other zoning jurisdictions, if applicable;
  3. Documentation regarding collocation as described in these regulations;
  4. Site plans, drawn to scale, that include the following information:
    - a. All property lines, showing distances and bearings, with topography sufficient to characterize site drainage;
    - b. All existing and proposed site improvements, including buildings and structures, roadways and easements, utility lines, and landscaping, with dimensions and setbacks from property lines;
    - c. A written statement and elevation drawings of the proposed WTF, indicating the type of construction, support structure, tower height, and visual image presented by the WTF;

- d. A notarized statement from the applicant that describes the facility's capacity and declares the number and type(s) of antenna(s) that it can accommodate, or an explanation of why the facility cannot be designed to accommodate other users;
  - e. An engineer's stamp and registration number;
  - f. A five-year plan stating their intentions and not subject to change; and
  - g. Any other information as requested by the city.
5. For any new WTF, a letter of intent committing the WTF owner and any successors to allowing shared use of the facility if an additional user agrees in writing to meet reasonable terms and conditions of shared use.
- B. Any requests for a WTF permit will be submitted with a filing fee of one hundred dollars (\$100.00) to the zoning officer on a prescribed form obtainable at the planning and zoning office. The zoning officer shall transmit the applications and all supplementary information to the planning and zoning commission for consideration at a public meeting which will be held, subject to prior notice, within forty-five (45) days following the date the application is received by the zoning officer and deemed complete. The applicant shall pay additional costs associated with a technical engineering review on behalf of the city. A decision by the planning and zoning commission will be made by a formal action to approve, to approve with conditions, or to deny the application for a WTF permit. Any decision by the planning and zoning commission regarding a WTF permit will be based on the evidence contained in the written record established through the application process.
- C. A variance to the requirements of these regulations may be granted by the planning and zoning commission in the same manner and under the same procedures as an application for a WTF permit. A variance may be requested as part of the initial application for a WTF permit or for a preexisting WTF.
- No variance will be granted if it is not in the best interest of the community as a whole, and it will not jeopardize the public health, safety, or welfare. The following conditions may be subject of a variance to the requirements of these regulations:
1. The height of the proposed WTF;
  2. The setback of the tower or antenna to residential zone district boundaries;
  3. Changes to any other dimensional restrictions;
  4. The design of the tower or antenna, with particular reference to design characteristics intended to reduce or eliminate the tower's or antenna's visibility;
  5. The availability of suitable existing towers or other structures; and
  6. Such other factors as may be relevant.
- D. Any aggrieved person or persons affected by a decision made by the planning and zoning commission regarding a WTF permit may appeal to the city council within thirty (30) days after the date of the decision being appealed. Subject to fees and procedures as stated in the comprehensive zoning

ordinance for appeal process. The city council shall conduct a public hearing on the appeal within forty-five (45) days following the request for appeal, subject to the prior notice. The city council may, by a majority vote of its members, uphold or reverse the decision of the planning and zoning commission. (Ord. No. 2015-14, 11-16-2015)

## Chapter 17.60 - ADMINISTRATION AND ENFORCEMENT

### Sections:

#### 17.60.010 - Administration and enforcement.

- A. A zoning enforcement officer will be appointed by the city council to administer and enforce this title. The zoning enforcement officer shall also serve as the building official authorized to enforce the provisions of the building code of the city.
- B. The zoning enforcement officer has the authority to enter all buildings and premises for the purpose of inspection, provided, however, that no dwelling may be entered without the consent of the occupant or owner unless at least twenty-four (24) hours' notice of intent to enter has been served upon the occupant or owner. The zoning enforcement officer may institute any appropriate action or proceeding to prevent, restrain, correct, or abate a violation of this title.
- C. No building or structure will be erected, improvements constructed, nor mobilehome installed upon any premises within the city of Belen without being reviewed by the zoning enforcement officer to determine compliance with this title. Building permit applications and plans will be submitted to the zoning enforcement officer for review and signature before being transmitted to the city building inspector with the appropriate building permit fee. No mobilehomes, or manufactured housing, may be located within the city of Belen without obtaining a mobilehome installation permit on a prescribed application form provided by the zoning enforcement officer and accompanied by an administrative fee in accordance with this title. A letter of zoning compliance must be obtained from the city of Belen zoning enforcement officer before applying for connection to public utilities. Property owners will be informed immediately if a zoning action is required.
- D. Whenever, in the course of administration and enforcement of this title, it is necessary to desirable to make any administrative decision, then, unless other standards are in this title provided, the decision will be made by the zoning enforcement officer so that the result will not be contrary to the spirit and purpose of this title or injurious to the surrounding neighborhood.
- E. The zoning enforcement officer shall maintain an office to supply the public with any information concerning this title and shall maintain the official Belen zoning atlas in an updated form. A zoning action file shall be established and maintained and shall contain accounts and related records of the following:
  - 1. Conditional use permits;



2. Variances allowed under this title;
3. Application for zone changes and amendments;
4. Certificates of nonconformance;
5. Zoning appeal;
6. Building permits;
7. Violations;
8. Mobilehome installation permits.

(Ord. No. 2015-14, 11-16-2015)

17.60.020 - Conditional use procedures.

- A. No conditional use shall be established in any zone district except upon permit issued by the planning and zoning commission, which shall be guided in making a decision by the criteria set forth in this section. Any person seeking a conditional use permit shall provide to the planning and zoning commission such information as it may reasonably require to determine whether the grant of the requested conditional use permit is consistent with the intent and purpose of this title.
- B. Any request for a conditional use permit shall be submitted to the planning and zoning commission through the zoning enforcement officer on prescribed application forms. The planning and zoning commission shall approve or disapprove the application following consideration at one (1) of its regular meetings. The planning and zoning commission shall conduct a public hearing on each request for conditional use. Public notice shall be given in a newspaper of general circulation in the area at least fifteen (15) days prior to the date of the meeting. Notice of the public hearing, time, date, place and a brief description of the requested conditional use shall be mailed by certified mail, return receipt requested to the owners of land within one hundred (100) feet of the exterior boundary of the tract of land where the conditional use is requested.
- C. In considering an application for a conditional use permit, the planning and zoning commission shall not grant any conditional use permit unless satisfactory provision and arrangement has been made concerning the following, where applicable:
  1. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
  2. Off-street parking and loading areas where required, with particular attention to refuse and service areas;
  3. Public and private utilities, with reference to locations, availability, and compatibility;
  4. The economic, noise, glare, or odor effects of the conditional use on adjoining properties; and
  5. General compatibility with adjacent properties and other property in the district.
- D.

The following conditional uses are limited to six (6) months duration, at the end of which time such use must be reviewed and a new permit granted in order for it to be continued:

1. Amusement parks, carnival, circus. Conditional use in any A-R, C-1 or M-C zone.
2. Dwelling, temporary watchman or caretaker. Conditional use in all zones.
3. Offices, temporary (real estate sales, etc.). Conditional use in all zones.
4. Flea markets as a conditional use in the C-1 and M-C zones, subject to the following requirements:
  - a. There shall be at least two (2) off-street parking spaces per rental stall on the premises;
  - b. Adequate refuse containers shall be provided to control litter;
  - c. Adequate sanitary facilities (restrooms), either portable or permanent, shall be provided on site;
  - d. Sale of animals is prohibited with the exception of dogs, cats, rabbits, birds and other common household pets;
  - e. No merchandise intended for sale shall be stored on site after business hours which shall be between 7:00 a.m. and 6:00 p.m.,
  - f. All tarps, tents or sunshades must be securely attached to prevent a safety hazard and must be removed at daily closing time; and
  - g. A site plan designed in accordance with the above requirements shall be submitted as part of the approval process.
- E. The planning and zoning commission may impose supplementary regulations and special conditions on requests for conditional uses. Any special conditions imposed by the planning and zoning commission shall apply in addition to the district regulations, and shall govern over any less restrictive zoning regulation.

(Ord. No. 2015-14, 11-16-2015)

#### 17.60.030 - Variance procedures.

- A. The planning and zoning commission may grant a variance from the strict application of area, height, dimension, distance, setback, off-street parking, and off-street loading requirements of this title in the case of exceptional physical conditions where the strict application of the requirements of this title would result in a practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of land or building.
- B. A request for a variance shall be submitted to the planning and zoning commission through the zoning enforcement officer on prescribed application forms. The planning and zoning commission shall approve or disapprove the variance request at one (1) of its regular meetings, or at a special hearing if necessary. Public notice shall be given in a newspaper of general circulation in the area at least fifteen (15) days prior to the date of said meeting. Notice of the public hearing date and a brief description of

the requested variance shall be mailed by certified mail, return receipt requested to the owners of land within one hundred (100) feet of the exterior boundary of the tract of land where the variance is requested.

- C. The applicant must post and maintain one (1) or more signs on the premises involved, as provided and where instructed by the zoning enforcement officer, at least fifteen (15) days prior to the date of consideration by the planning and zoning commission. The applicant is responsible for removing such signs within five (5) days after the planning and zoning commission issues its decision on the variance request. Failure to properly post signs is grounds for deferral or denial of the application. It is unlawful for any person, except the applicant or an agent for the applicant or the city of Belen, to remove or tamper with any such required sign during the period it is required to be maintained under this paragraph.
- D. The planning and zoning commission may attach any conditions to the grant of a variance in order to assure that the requested variance:
  - 1. Will cause no significant hazard, annoyance or inconvenience to the owners or occupants of nearby property;
  - 2. Will not significantly change the character of the neighborhood or reduce the value of nearby property;
  - 3. Will not impose any significant cost burden upon the city of Belen; and
  - 4. Will be in harmony with the general purpose and intent of this title.

(Ord. No. 2015-14, 11-16-2015)

#### 17.60.040 - Zone change and amendment procedures.

- A.
  - 1. Applications for amendment to the map or text of this title may be made by the owner of record for the property where the zone change is requested, or by the planning and zoning commission.
  - 2. Except in the event where a legal lot of record is divided by a zoning district boundary, no request to change the zoning classification on any portion of a legal lot of record shall be considered unless such change will establish a uniform zoning classification for the entire lot.
- B. Amendments to the map or text of this title are initiated by application to the zoning enforcement officer on prescribed forms. Each application for an amendment to the Belen zoning atlas shall be accompanied by the filing fee and a sketch showing the location and dimensions of the property, adjoining property, abutting streets and alleys, and any other related information requested by the planning and zoning commission or the city council. Applications involving change to a special use zone must include development plans as required in chapter 17.44 of this title. Submission of inaccurate information with an application is grounds for denial.
- C. Request for all zone changes shall first be examined by the planning and zoning commission in order to determine if they are spot zoning as defined by this title. Any zone change requests determined by the planning and zoning commission to be spot zoning shall not be given a positive recommendation to the

city council.

- D. The planning and zoning commission shall hold a public meeting to evaluate proposed zone changes or amendments to this title and shall submit a recommendation in writing to the city council. Notice of the public meeting shall be given in a newspaper of general circulation in the area at least fifteen (15) days prior to said meeting.
- E. The planning and zoning commission shall present its written recommendation to the city council following any application for a zone change or amendment to this title within forty-five (45) days after receipt thereof. The city council shall begin proceedings to consider such application for a zone change or amendment to this title upon receipt of the written recommendation of the planning and zoning commission.
- F. The city council shall conduct a public hearing at which all parties in interest and citizens shall have an opportunity to be heard. Notification of the time and place of the public hearing shall be published in a newspaper of general circulation in the area at least fifteen (15) days prior to the hearing. Whenever a change in zoning is proposed for an area of one (1) block or less, notice of the public hearing shall be mailed by certified mail, return receipt requested, to the owners of the land within the area proposed to be changed by a zoning regulation and within one hundred (100) feet, excluding public right-of-way of the area proposed to be changed by the zoning regulation. If the requested zone change is approved by the city council, such zone change shall be by ordinance. If the requested zone change is for a specific purpose, as set forth in the minutes of the council meeting or zone change application, then the property rezoned shall be utilized for that specific purpose within one (1) year of the effective date of the ordinance or the property rezoned shall revert back to its prior zoning status.
- G. The applicant must post and maintain one (1) or more signs on the premises involved, as provided and where instructed by the zoning enforcement officer, at least fifteen (15) days prior to the date of the public meeting conducted by the planning and zoning commission. The applicant is responsible for removing such signs within five (5) days after the public hearing conducted by the city council is completed. Failure to properly post signs is grounds for deferral or denial of the application. It is unlawful for any person, except the applicant or an agent for the applicant or the city of Belen, to remove or tamper with any such required sign during the period it is required to be maintained under this paragraph.
- H. If the owners of twenty (20) percent or more of the land area proposed to be changed by zoning regulation or the land area within one hundred (100) feet, excluding public right-of-way, of the land area proposed to be changed by zoning regulation, protest in writing the proposed change shall not become effective unless such change is approved by a majority vote of all members of the city council.
- I. Supplementary regulations and special conditions may be imposed by the city council with or without a recommendation from the planning and zoning commission. Conditions attached to a change in zoning districts shall govern over any less restrictive zoning regulation unless specifically provided otherwise. All district regulations not specifically affected by a conditional zoning shall apply in the same manner as if the zoning district were not subject to conditions.

(Ord. No. 2015-14, 11-16-2015)

17.60.050 - Annexation.

- A. Annexation and zoning of land to the city of Belen is initiated by application to the zoning enforcement officer on prescribed forms.
- B. Requests for annexation shall first be reviewed by the planning and zoning commission to examine the request for conformance with city policy and to determine the appropriate zoning for the territory to be annexed to the city of Belen. The planning and zoning commission shall hold a public hearing on the request. Notification of the time and place of the public hearing shall be published in a newspaper of general circulation in the area at least fifteen (15) days prior to the hearing. Notice of the public hearing time, date, place and a brief description of the location and size of the request shall be mailed by certified mail, return receipt requested to the owners of land within one hundred (100) feet of the land proposed for annexation and zoning of territory being annexed, excluding easements and public right-of-way. This notice shall be mailed at least fifteen (15) days prior to the date of hearing.
- C. The city council shall hold a public hearing, at which time the council shall receive the recommendation from the planning and zoning commission on the annexation and determination of the appropriate zone. Further, the city council of the city of Belen shall receive public comment on the proposed zones. The same public notification procedures required for the public hearing before the planning and zoning commission are required for the public hearing conducted by the city council.
- D. After the hearing conducted by the city council of the city of Belen on the annexation request and proposed zoning of territory annexed to the city of Belen, the council shall, by ordinance, designate permanent zones for the annexed territory.

(Ord. No. 2015-14, 11-16-2015)

17.60.060 - Reserved.

17.60.070 - Appeals.

- A. Any person aggrieved by an interpretation, decision or action of the zoning enforcement officer or the planning and zoning commission in administering this title may appeal such interpretation, decision or action to the city council.
- B. Appeal shall be initiated by application and filing fee to the zoning enforcement officer on prescribed forms within thirty (30) days of the contested determination made by the zoning enforcement officer or the planning and zoning commission.
- C. Decision on an appeal shall be made by the city council following a public hearing. Public notice of an appeal hearing shall be given in the same manner as prescribed for a zone change in this title. The city manager shall give written notice of an appeal, together with a notice of the date, time, and place of

hearing to the applicant, each member of the planning and zoning commission, and a representative of the opponents, if any. An appeal shall be decided within three months of the date of its filing.

- D. The concurring vote of at least two-thirds (  $2/3$ ; ) of the members of the city council is required to reverse a determination made by the zoning enforcement officer or the planning and zoning commission.

(Ord. No. 2015-14, 11-16-2015)

#### 17.60.080 - Fees.

- A. Variances, conditional use permits, zone changes, amendments, appeals and mobilehome installation permits shall not be considered until there is first paid a fee as required below, except that such fee shall not be required where the city of Belen or any official or body thereof is the moving party. The amount of required fees is as follows:
1. For consideration of a variance application, one hundred fifty dollars (\$150.00);
  2. For consideration of a conditional use permit, one hundred fifty dollars (\$150.00);
  3. For consideration of zone changes and amendments to this chapter, two hundred fifty dollars (\$250.00);
  4. For consideration of an appeal to the city council under the provisions of this chapter, one hundred dollars (\$100.00);
  5. For consideration of mobile/manufactured homes on a permanent foundation an installation permit fee of two hundred fifty dollars (\$250.00);
  6. For consideration of mobilehome parks, rental spaces for mobilehomes, recreational vehicles and camping trailers, an installation permit fee of twenty-five dollars (\$25.00).
- B. When an application is withdrawn after advertising for public hearing, the filing fee shall not be refunded.

(Ord. No. 2015-14, 11-16-2015)

#### 17.60.090 - Penalties.

Any person violating any of the provisions of this title shall upon conviction be subject to a fine not exceeding three hundred dollars (\$300.00) or imprisonment for a period not exceeding ninety (90) days, or both such fine and imprisonment. Any violation continued for a period of fifteen (15) days after conviction shall be prosecuted and treated as a separate offense.

(Ord. No. 2015-14, 11-16-2015)

#### 17.60.100 - Interpretation and conflict.

The provisions of this title are held to be minimum requirements to carry out the purpose of this title and are not intended to interfere with, abrogate, or annul any easement, covenant, or other valid ordinance except that which is described by the repeal section of this title. Where this title imposes a greater restriction than is required by existing regulations, easements, covenants, agreements, or ordinances, the provisions of this title shall control. Regardless of any other provision of this title, no land shall be used and no structure erected or maintained in violation of any state or federal pollution control or environmental protection law or regulation.

(Ord. No. 2015-14, 11-16-2015)

